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COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Item 13 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 18 January 1990 from the Chargé d'affaires of the Permanent Mission of the Socialist People's Republic of Albania to the United Nations Office at Geneva, addressed to the Under-Secretary-General for Human Rights

I have the honour to transmit herewith information on the rights of citizens in the Socialist People's Republic of Albania (see annex).

I should be grateful if you would circulate the text of this letter and the annex as a document of the Commission on Human Rights, under agenda item 13, at the forty-sixth session.

(Signed) Alfred Papuçiu
Chargé d'affaires

GE.90-10232/5156A

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ANNEX

THE RIGHTS OF CITIZENS IN THE SOCIALIST PEOPLE'S REPUBLIC OF ALBANIA

1. The people's rule, established after Albania was liberated, on 29 November 1944, brought the Albanian people independence, freedom and genuine democracy. Over the past four and a half decades, the structure of the economy and of society has been wholly transformed, production capacity has increased, independence has been guaranteed and all citizens have been ensured a decent living. Human rights have been guaranteed de jure and de facto and this has paved the way for emancipation in all fields. The historical fact that the anti-fascist National Liberation Council, at its first meeting, held in October 1944, approved the declaration of the rights of citizens as its first document, is significant.

2. The economic and social development and progress of Albania are based on attaining the most humane objectives, on endeavouring to make the life of the people as happy and prosperous as possible, on fulfilling the growing needs of the worker and on safeguarding the rights and freedoms of all citizens. Democracy and human rights in Albania are attributes of the system and constitute the very essence of the people's rule. Albanian society is a society in which justice reigns, it experiences no social conflicts or national oppression, and it respects the honest worker.

3. The new order in Albania has done away with the exploitation of man by man, with unemployment and emigration. In Albania there are no rich people who live off the workers and peasants, nor are there any poor people who live off the charity of others. Everyone lives by the fruits of his labour and the sweat of his brow. Citizens are placed on an equal footing in all domains. The development of productive forces and material production is intended to secure a constant rise in the material and cultural standard of living of the people.

4. Every citizen is assured by law, and guaranteed in practice, the right to work, to education, to medical care and to national equality.

5. Albanian citizens enjoy the right to guaranteed work suited to their occupation and their personal abilities. The right to work goes hand in hand with a number of material and legal guarantees that make it real and effective. The working man lives with his mind at ease, without the least fear of losing his job, of being dismissed or arbitrarily transferred. The worker is free to leave his job when he deems it appropriate (Labour Code, art. 96), and the competent authorities are obliged to find him another suitable one. Under the Criminal Code (art. 229), it is a punishable offence to engage in any arbitrary practice and for leaders of enterprises, institutions or social organizations knowingly to violate any rights afforded to the workers by the Constitution and by other legislative provisions on labour relations.

6. The realization of a large number of other rights, such as the right to paid daily, weekly and annual leave and guaranteed material assistance necessary for the aged in the event of sickness or loss of working capacity, falls under the right to work. In Albania, the principles of "each according to his ability, each according to his work, and equal pay for equal work" apply.

7. There is no unemployment in Albania. Parasitism, appropriation of the fruits of the labour of others, speculation, etc., are prohibited and punishable by law. The law guarantees and protects the freedom of scientific work and literary and artistic creativity, as well as copyright.

8. The Constitution of the Socialist People's Republic of Albania lays down the right to education; eight years' education is compulsory. The State aims to raise the standard of compulsory education for all (art. 52). The system of education in Albania guarantees every opportunity for schooling for the masses, which is unrestricted and entirely free of charge.

9. In Albania, the State takes all steps to protect the health of the people. Medical care is free of charge for everybody, without exception (Constitution, art. 47). Approximately two thirds of costs of day nurseries and kindergartens are covered by the State.

10. Albania is the country where the workers pay no taxes, direct or indirect, of any kind. Approximately 80 per cent of the population live in newly built housing put up in the 45 years since the Liberation.

11. The organization and the activity of rule by the people are based on broad participation by the working masses in building the country. In Albania, democracy is something concrete. It is expressed through the right, enjoyed by all workers, to direct exercise of their power, by shaping plans and methods for developing the economy and culture, and also deciding on production and on the distribution of material goods. They speak freely on all important economic, political and social problems, they take an active part in elaborating the laws, and they play a crucial role in applying them.

12. One of the fundamental rights of citizens is the right to vote and to stand for election to the organs of power. This right is reflected in elections which are held by universal, direct, equal vote and secret ballot. During the electoral campaign, the Democratic Front organization, after receiving proposals from the Workers' Unions, the Union of Women, the Union of Young People, the Organization of Veterans, and the Party organization, present candidatures and they are discussed by the people in each electoral district. More than one candidate is proposed for a seat to be filled. After wide-ranging debate, the candidatures which command most votes are accepted and a large number are proposed in the course of such meetings. This thorough examination of candidatures and the designation of candidates by the masses themselves is the real machinery of democracy in Albania. It is not the person who aspires to a post as a councillor or deputy who submits his candidature: the candidates are proposed by the masses themselves. This means that the people can, before going to the polls, reject any candidate who does not enjoy their trust.

13. Citizens are guaranteed political freedoms, such as freedom of expression, freedom of the press, freedom of association, freedom of assembly and freedom to hold public meetings. The freedoms of the individual also include the inviolability of his person and home, the confidentiality of correspondence, and so on.

14. Under the Constitution, citizens are entitled to make requests, comments and proposals and to lay complaints with the competent authorities in connection with personal, social and official questions. Moreover, they are

entitled to apply for compensation by the State or its officials for harm caused by unlawful acts by State bodies and officials in the performance of their duties.

15. Among the basic principles of the system of rights and duties of citizens, the principle of equality has a special place. The Constitution and legislative and sub-legislative provisions deriving from it do not recognize any kind of privilege for any citizen in the exercise of his rights and the fulfilment of his duties on the grounds of sex, race, nationality, level of education, social position or financial situation.

16. One of the major changes that have taken place in Albanian society is the development of the status of women. At present, women account for 46 per cent of workers, 29.2 per cent of deputies to the People's Assembly, 32 per cent of the members of the Supreme Court, 41 per cent of the leaders of grass-roots organizations, 50 per cent of students and 42.5 per cent of managers having received higher education.

17. National minorities in Albania enjoy "the same rights as all other Albanian citizens". In recognizing the equality of national minorities, the Constitution stresses that "any privilege, inequality or action contrary to the rights of national minorities is anti-constitutional and condemned by law" (art. 42).

18. National minorities are guaranteed the protection and development of their culture and their popular traditions, the use of their mother tongue and instruction in it in schools and equal opportunities for development in all spheres of social life.

19. Article 56 of the Criminal Code prohibits "incitement to hatred and to racial or national conflicts, as well as the preparation, dissemination or preservation for the purpose of dissemination of written material having such content". Article 107 of the Criminal Code guarantees further protection of the interests of national minorities by characterizing as a crime any action that is contrary to the rights of these minorities, even when such action does not constitute a crime against the State.

20. The Criminal Code also characterizes as crimes acts which undermine justice and guarantees of the protection of the individual.

21. In Albania, the main purpose of a sentence is not to punish, but to educate offenders through work and to influence unstable elements in order to prevent them from committing unlawful acts. In determining penalties, the courts thus tend to take measures of an educational nature, as well as less severe measures which allow offenders to continue to be members of their work collective. It is also strictly prohibited to subject persons sentenced to terms of imprisonment to ill-treatment or any other method or measure that impairs the dignity of the individual.

22. A sentence means that the offender is deprived of his freedom for the period of time determined by the court. The individual's right to freedom of movement is thus restricted, but he is not spiritually isolated, since he is not deprived of the possibility of developing intellectually in cultural and occupational terms and maintaining links with society and the members of his family. In this connection, it should be recalled that detainees have the

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right to visit their families for a few days from time to time and the right to meet periodically and spend up to 24 hours with their spouse in hotels built specifically for this purpose near prisons.

23. Albanian legislation guarantees the protection of the individual in every respect. Specific provisions of the Criminal Code state that any action against the life, health or dignity of the individual is punishable. The courts and the court of appeal apply the same rules to everyone and investigate each case in an entirely objective, comprehensive and detailed manner in order to protect all citizens against unfair prosecution or sentencing and in order to determine the responsibility of the real offender. With regard to the conduct of investigations, the Code of Criminal Procedure categorically states that "during investigations, the use of physical or mental violence, as well as of other measures of the same kind, are prohibited" (art. 7).

24. The Constitution guarantees all accused persons the right of defence during trial. The Code of Criminal Procedure provides that accused persons are entitled to use any procedural means to clear themselves of unfounded charges, fully shed light on the circumstances of the case in an objective manner and, in a spirit of justice, define their responsibility for the commission of criminal acts. "An accused person shall be entitled to lodge a complaint against action by the examining magistrate which may violate or restrict his rights" (art. 107).

25. The Constitution of the Socialist People's Republic of Albania empowers the Presidium of the People's Assembly to proclaim amnesties and grant pardons for any persons who have committed, and been convicted of, criminal offences. Broad amnesties have been proclaimed periodically, especially in recent years. The most recent one was promulgated by the Presidium of the People's Assembly on the occasion of the forty-fifth anniversary of the country's liberation. Under Decree No. 7338 of 13 November 1989, a broad amnesty was thus proclaimed for a large number of persons detained for crimes against the State, attempts to escape, agitation and propaganda, etc. On the proposal of grass-roots organizations or the judiciary or at the request of a convicted person and his family, the Presidium of the People's Assembly is also empowered to pardon persons convicted of various criminal offences.

26. There is genuine freedom of conscience in Albania. Religious belief, like matters of conscience, is regarded as a right and as a matter for each individual to decide. The Albanian people have decided on their attitude towards religious institutions of their own free will, without any constraints. This does not, however, mean that believers cannot practise their religion because, ultimately, that is a personal and family matter.

27. The Constitution and the laws in force do not provide either for the protection of religion or for its suppression by administrative measures. By guaranteeing freedom of conscience, the State does not allow administrative means to be used to undermine the religious beliefs of citizens.

28. No one in Albania may be convicted for his religious beliefs. The factors and reasons which unite the Albanian people are very strong and go beyond religious prejudices.

29. The Albanian system of justice has convicted persons who, on the pretext of protecting religion and religious practices, have acted against the higher interests of the country by collaborating with occupiers, traitors, terrorists and fascists and using churches and mosques to store weapons and engage in corruption.

30. In addition to the rights and freedoms they enjoy, all citizens have duties to society, including the enforcement of the rule of law, the protection and strengthening of property and the defence of the country.

31. Democracy in the Socialist People's Republic of Albania is reflected not only in its domestic policies, but also in its foreign policy, which is designed to protect and strengthen the country's freedom and independence, to establish peaceful conditions for overall development and to ensure citizens a safe and happy life.

32. Albania's foreign policy is free, independent and sovereign. Albania is in favour of the establishment of relations and co-operation with all countries which apply the principles of equality, non-interference in internal affairs, respect for sovereignty and mutual advantage. It strongly supports the right of peoples to self-determination and the freedom of all countries to choose their pattern of free and independent development and it is opposed to policies of war, aggression, oppression and diktat, thus making its modest contribution to the cause of safeguarding international peace and security, freedom, independence and progress.

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Item 10 of the provisional agenda

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Letter dated 15 January 1990 from the Permanent Representative of Democratic Kampuchea to the United Nations Office at Geneva, addressed to the Under-Secretary-General for Human Rights

I have the honour to transmit herewith:

1. The message from H.R.H. Samdech Norodom Sihanouk, Leader of the Cambodian National Resistance, President of Democratic Kampuchea, delivered by H.E. Mr. Son Sann, Prime Minister of the Coalition Government of Democratic Kampuchea, at the forty-fourth session of the United Nations General Assembly on agenda item 31: "The situation in Kampuchea", on 15 November 1989 (A/44/PV.56);

2. A memorandum entitled "The Establishment of Vietnamese Settlements is a Major Obstacle to the Restoration of an Independent, Peaceful and Neutral Cambodia", prepared on 6 August 1989 by the Department of Press and Information of the Ministry of Foreign Affairs of the Coalition Government of Democratic Kampuchea (A/44/531);

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3. A memorandum entitled "Who Have Committed Genocide Against the People of Cambodia?", dated 30 October 1989 and published by the Department of Press and Information of the Ministry of Foreign Affairs of the Coalition Government of Democratic Kampuchea (A/44/710).

I should be very grateful if you would arrange for the aforementioned documents to be circulated as official documents of the Commission on Human Rights at its forty-sixth session under item 10 of the provisional agenda: "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation".

(Signed) NGO Hac Team

Ambassador
Permanent Representative

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COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Item 4 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Letter dated 18 September 1989 from the Permanent Observer for Palestine to the United Nations Office at Geneva addressed to the Under-Secretary-General for Human Rights

1. The Palestinian people in the occupied territories are still being daily subjected to the most heinous crimes perpetrated by Israeli military forces. Neither repeated appeals to desist from such atrocities, made by international bodies as the International Committee of the Red Cross, the Commission on Human Rights, the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, nor warnings by other organizations such as Amnesty International, the International Commission of Jurists, nor the outcry of world public opinion, have had the slightest effect on Israel. It refuses to abide even by its own commitments to implement United Nations resolutions, to respect the Geneva Conventions and to comply with the principles of international law. Ever since its occupation of the Palestinian territories in 1967, and even now, it persists in violating human rights. It has intensified such violations following the advent of the intifada on 8 December 1987. Veritable crimes against humanity, war crimes, crimes against the peace of mankind are being committed by Israel in its pursuit of the so-called iron-fist policy against defenceless Palestinian civilians, particularly women, children and the elderly, who are resisting Israeli military occupation with their bare hands. The occasional stone they throw is but a symbol of their utter rejection of Israeli occupation and an expression of their determination to wrench their freedom and independence from the occupier. They are exercising their legitimate right to lead a free, dignified life in their own land; self-determination is their goal, and is a fundamental human right recognized by the United Nations Charter and the principles of international law.

2. The deliberate, premeditated killing of Palestinians (more than 900 have fallen martyrs in the past 21 months) cannot but be an act of genocide. Such practice has persisted for years, and the number of victims is rising every day.

3. The diversity of the means used for deliberate murder and genocide by the Israeli occupation forces is astonishing. Live ammunition, plastic bullets, poison-gas bombs thrown into enclosed places are some of the lethal weapons wielded against Palestinians in their own land. Massacres such as the Nahalin blood-bath on 13 April 1989, the Nuseirat Camp slaughter on 5 May 1989 and the Jabalya mass murder of 25 May 1989 are but part of the order of the day now. Burying and burning people alive, causing pregnant women to abort through the use of poison gas or by beating them, as already indicated in my previous communications, are but another facet of Israeli practices. Sixteen women aborted by inhaling poison gas or from excessive beating in the Gaza Strip last August. Cases of forced abortion have exceeded 4,000 since the beginning of the intifada. Schoolgirls were poisoned to render them barren in Tulkarem and Jenin in 1983. Men and children have had their limbs and skulls broken, as seen by the whole world on television screens. Towns, villages and camps have been subjected to impossible living conditions intended to drive their population to death, as was the case with the town of Rafah last August, and as is the case with the city of Nablus at present. Israeli occupation forces imposed a curfew on this city, which has been in force since Saturday, 2 September. The inhabitants of the city are desperately short of food, milk for babies and basic medicines.

4. Such diverse means of murder and annihilation have been used by the Israeli occupation authorities against the Palestinians for years. Could there be any doubt, therefore, that they constitute a systematic, established policy, and are not a mere accident, coincidence or mistake? Nor are such practices confined to certain conditions or a transient period of time; they are deliberate, premeditated acts of genocide prohibited by the Convention on the Prohibition and Punishment of the Crime of Genocide adopted by the General Assembly in resolution 260 A (III) dated 9 December 1948.

5. Genocide has been systematically practised by the Israeli occupation authorities against the Palestinian people ever since the Deir Yassin massacre in 1948, not to mention the massacres they perpetrated at Quibya, Samou', Kafr Kassem, Sabra and Shatila. Genocide was condemned at the time by the world community, but is still practised today and since the beginning of the great intifada. Gross violations of human rights (such as the right to life, as defined in article 3 of the Universal Declaration of Human Rights and in article 6 of the International Covenant on Civil and Political Rights, which confirm that the right to life is a birthright of every human being, that the law must protect this right, and that no human being is to be deprived of it arbitrarily) are being committed daily by Israel against the Palestinian people.

6. The seriousness of premeditated murder perpetrated by the Israeli occupation authorities is even worse when the murderous hand reaches out for innocent children, after having murdered unborn babies in their mothers' wombs. Israeli rifles are daily aimed at children, as though they were mere game or unwanted animals. The crime is even uglier when the hands of Israelis (God's chosen people) stain the face of human civilization with the blood of

innocent Palestinian children, at a time when the entire world is about to conclude the convention on the rights of the child at the current session of the United Nations General Assembly. Such disdain for human values has prompted the director of Israel's Information Centre for Human Rights to demand that the Israeli ministers of defence and the police start an inquiry into the killing of 13 out of 25 Palestinian children killed between 1 and 25 August 1989, according to the Davar newspaper of 27 August 1989. Most prominent among such wanton murders was the murder of the Palestinian 14-year-old Amjad Hussein Jibril (of United States nationality), abducted by the Israelis on 18 August 1989 and subsequently tortured to death.

7. The enumeration of Israeli atrocities should not overlook the equally serious crimes committed by the Israeli forces against those they have failed to reach directly. More than 50,000 detainees are kept without trial in Israeli prisons under so-called administrative detention lasting from 6 to 12 months.

8. Physical and psychological torture is part of the intolerable living conditions in detention camps. Practices in contravention of article 5 of the Universal Declaration of Human Rights, of article 7 of the International Covenant on Civil and Political Rights, as well as of articles 3, 32, 85, 86, 91, 93, and 100 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, have resulted in the death of many civilians, as with Omar Al-Kassem, who died on 4 June 1989 after having spent 21 years in Askelon military prison. More than 6,000 Palestinians now suffer permanent disability, apart from other crimes against detainees at the Ansar 3, Askelon, Juneid and other prisons. Such violations are but a natural outcome of the Israeli military occupation which aims at usurping the land and destroying the Palestinian society, a crime in itself against the peace of mankind.

9. Destruction of the Palestinian society and evacuation of the land is a systematic policy pursued by the Israeli occupation authorities and reflected in deportation, expulsion and separation from property and family. Palestinians deported by military orders now total 1,361 citizens: 1,300 deported after the June 1967 war, and 61 since the beginning of the intifada on 8 December 1987. These measures are yet another violation of article 49 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 1949, and a flagrant disregard of the resolutions of the Security Council, the General Assembly and the Commission on Human Rights, which confirmed the applicability of the Fourth Geneva Convention of 1949 to the occupied Palestinian territories, and to Palestinian citizens. Israel has also disregarded repeated appeals to respect the said Convention, desist from deporting and expelling citizens, and allow deportees to return to their homeland. The International Committee of the Red Cross has expressed its deep concern at Israel's continued violation of the Fourth Geneva Convention through press releases on 13 January 1988, 18 August 1988, 19 August 1988 and 14 April 1989. Mr. Cornelio Sommaruga, President of ICRC, expressed his indignation at Israel's persistent violation of the said Convention following his recent visit to Israel on 24 June 1989.

10. Further crimes have been perpetrated against thousands of Palestinians subjected to collective punishment in violation of articles 33 and 53 of the Fourth Geneva Convention. The closure of universities, schools and institutes for a whole calendar year, the imposition of constant curfews, and the declaration of towns and villages as closed military zones deprived 67,000 university students and 300,000 schoolchildren of their right to education during the academic year 1987/1988, as part of the collective sanctions imposed by Israel. Demolition of houses over the past two years is another form of collective punishment which has left tens of thousands homeless. On this subject, the Papal Friendship and Peace Committee said in a statement issued on 12 September 1989 in Jerusalem that the Israeli authorities had demolished 806 houses during the first 18 months of the intifada and rendered 8,000 Palestinians homeless. The Committee, led by the French Cardinal Roger Etchegaray, also said that the demolitions had included a four-room flat housing 18 persons.

11. Perseverance in crime has not spared even the flora of Palestine. The death administered by the Israeli occupation authorities to the Palestinians has been the lot of their citrus and olive trees, tens of thousands of which have been uprooted and destroyed by the Israeli occupation authorities in a savage vendetta campaign beginning on 13 July 1989, when 32,000 vines were destroyed in Halhoul and Hebron alone by spraying with poison.

12. As I present this memorandum to Your Excellency, the greater part of occupied Palestinian territories is under siege and curfew, and Palestinian citizens are daily falling victim of the aggression of the Israeli occupation authorities.

13. I kindly request you to submit the present memorandum to H.E. Mr. Marc Bossuyt, Chairman of the forty-fifth session of the Commission on Human Rights, as well as to the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, and to consider this document as an official document of the forty-sixth session of the Commission on Human Rights.

(Signed) Nabil RAMLAWI

Permanent Observer for Palestine to the
United Nations Office at Geneva

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND DEPENDENT COUNTRIES AND TERRITORIES

Note verbale dated 4 December 1989 from the Permanent Mission of Lebanon to the United Nations Office at Geneva addressed to the Centre for Human Rights

1. The Permanent Mission of Lebanon to the United Nations Office at Geneva presents its compliments to the Centre for Human Rights and has the honour to inform it that, on 27 November 1989, Israeli occupation forces, acting in collaboration with the militias of the so-called "South Lebanon Army", opened fire at random on detainees at the Khiyam detention centre in the so-called "security belt" which Israel occupies in South Lebanon, as a result of which two Lebanese citizens were killed and five others wounded. This criminal act was committed when the detainees, numbering more than 400, began a hunger strike after the administration of the detention centre had refused their demands for an improvement in sanitary conditions and in the quality of meals, measures to prevent water from leaking into the cells, and the cessation of the acts of torture and terrorism to which they are subjected every day.

2. The Israeli authorities are attempting to conceal the acts of torture and the crimes and inhuman practices that they are committing in these detention centres. To that end, the Israeli occupation forces and the militias under their control are preventing representatives of the International Red Cross, Amnesty International and other humanitarian organizations from entering those centres to ascertain the tragic situation and the harsh conditions of detention.

3. The Israeli authorities are refusing to apply the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War to those detainees on the pretext that the so-called "security belt" is not subject to their control. However, this assertion is refuted by the occupation of that zone by Israeli forces, the support that they are giving to local militias, the numerous declarations by Israeli officials affirming their unwillingness to withdraw from that zone and the recurrent Israeli attacks on United Nations forces, which are being prevented from discharging their task of applying Security Council resolution 425 (1978). These facts are attested in the periodic reports that those forces have issued since that year, and also by other periodic reports issued by the International Committee of the Red Cross.

4. This is not the first time that Israeli forces and the militias collaborating with them have committed such odious crimes against detainees and the civilian population of the zone that they are occupying in South Lebanon. The Lebanese Government has frequently drawn attention to those inhuman practices and has stressed the need to bring adequate pressure to bear on Israel with a view to their cessation. The Commission on Human Rights has adopted a number of resolutions to this end, the most recent being resolution 65/89 of 8 March 1989.

5. In view of the Israeli authorities' refusal to respond to the appeals of the international community, represented by the Commission on Human Rights, as well as of their refusal to put an immediate end to their violations of human rights in South Lebanon and to withdraw unconditionally from Lebanese territory in compliance with the above-mentioned Security Council resolution 425 (1978), the Commission should take a more resolute stand. The Lebanese Government strongly deplores the latest Israeli crime, as a result of which two Lebanese citizens died and five others were wounded, and once again calls upon the Commission on Human Rights to condemn this further crime and to intensify its endeavours to put an end to the acts of torture, terrorism and ill-treatment that the Israeli forces and the militias collaborating with them in the so-called "South Lebanon Army" are committing against Lebanese detainees at Khiyam and other detention centres in the so-called "security belt" and in Israeli prisons. The Lebanese Government also appeals for pressure to be exerted on the Israeli authorities to enable the International Committee of the Red Cross, Amnesty International and other humanitarian organizations to visit those detainees and obtain first-hand knowledge of their situation. The Lebanese Government also requests the Commission on Human Rights to send one of its committees to investigate this crime and the tragic situation from which Lebanese detainees are suffering.

6. The Mission requests that this note be distributed as an official document of the Commission on Human Rights.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND DEPENDENT COUNTRIES AND TERRITORIES

Note verbale dated 19 December 1989 from the Permanent Mission of Lebanon to the United Nations Office at Geneva addressed to the Centre for Human Rights

1. The Permanent Mission of Lebanon to the United Nations Office at Geneva presents its compliments to the Centre for Human Rights and, further to its note 399/15 of 4 December 1989, has the honour to transmit herewith a list containing the names of the victims of the random Israeli bombardment of the town of Nabatiye, its surrounding area and towns and villages in the districts of Bent Jbeil and Sidon in the early part of this month, during which seven innocent civilians were killed and 46 wounded.

2. The list also contains the name of a further Lebanese victim, whose home was demolished by an Israeli military unit that infiltrated from the occupied areas.

3. This bombardment, the infiltrations and the demolition of houses form part of the recurrent daily practices in which the Israeli occupation authorities engage with a view to terrorizing the civilian population of South Lebanon and preventing them from pursuing their normal, peaceful lives. They unquestionably constitute flagrant violations of human rights and require renewed intervention by the international community, represented by the Commission on Human Rights, which should condemn them and bring pressure on Israel to cease those practices forthwith and respect the territorial integrity and independence of Lebanon.

4. The Mission requests that this note be distributed as an official document of the Commission on Human Rights.

Annex

List of victims of Israeli bombardment

In the town of Nabatiye and surrounding area

1. At 9.40 a.m. on 2 December 1989, the town of Nabatiye and the villages of Kfar Roummane and Habboush in the district of Nabatiye came under sporadic artillery and machine-gun fire from Israeli positions in the hills at Suweida, Tura and Tahir, as a result of which the following persons were killed:

Zuheir Hassan Hariri (aged 20) and Shima Fuad Hariri (aged 3).

2. The following persons were wounded: Ali Shammar, Fadhl Kuheil, Qasim Amhaz, Muhammad Amhaz, Fadhl Zuheir and Ali Hariri in the town of Nabatiye, Jamila Salameh and Fatima Salameh in the village of Kfar Roummane, and Ahmad Ali Shahour and his wife Jihan Ali Tafili in the village of Habboush. All schools and shops were closed and a number of main roads were blocked.

3. At 10.30 a.m. on the same day, the sporadic bombardment of the town of Nabatiye was resumed, as a result of which As'ad Hijazi (a sergeant in the internal security forces) was killed and the following persons wounded: Muhammad Zeidan (aged 40), Abbas Zeidan (aged 15), Yusuf Zeidan (aged 10), Fadiya Hamid Ayyash (aged 42), Raja Sarhan Qubeisi and her son Hassan Qubeisi. This bombardment, which lasted until 5 p.m., also caused extensive damage to property.

4. At 5.30 a.m. on 3 December 1989, the artillery bombardment of the town of Nabatiye and the village of Kfar Roummane recommenced and continued sporadically until 3 p.m., as a result of which Ali Hussein Qadih (aged 18) was wounded and extensive material damage was caused to property.

5. At 6 a.m. on 4 December 1989, the town of Nabatiye and the villages of Habboush and Kfar Roummane once again came under artillery fire from Israeli positions, as a result of which Iyad Nasir (aged 23), Hussein Muhammad al-Haji Hassan (aged 63), Sharif Nur ed-Din (aged 70) and Nasir al-Mu'allim (aged 19) were killed and the following persons wounded: Muhammad Hariri (aged 18), Fadi Hariri (aged 16), Ibrahim Farhat (aged 50), Kamal Abu Zeid (aged 40), Ahmad Yazbak (aged 40), Iyad Qadih (aged 50), Abed Fawwaz (aged 50), Adnan Rabiheh (aged 15), Imad Muhieddin (aged 18), Ali Muhieddin (aged 45), Muhammad Hamza (aged 40), Hussein Houli (aged 18), Abdullah Uqail (aged 23) and Ghassan Salameh (aged 21). In addition to these persons, all of whom were from the village of Kfar Roummane, Ali Ghandour, Hassan Houmani and Ismail al-Tayarani were wounded in the town of Nabatiye and extensive material damage was caused to property. When the bombardment ended at 6 p.m., the situation remained tense and schools and shops were closed.

6. At 7 a.m. on 5 December 1989, the village of Kfar Roummane again came under machine-gun fire and an artillery shell fell on Nabatiye.

7. At 9 a.m. on 5 December 1989, several shells fell on the town of Nabatiye, wounding Muna Sadiq al-Daqdouq (aged 25) and causing extensive material damage.

8. At 12 noon on the same day, three shells fired from the Israeli positions on the hills of Sajad and Jabal Safi fell on the outskirts of the town of Ain Busuwar in the district of Nabatiye.

In the districts of Bent Jbeil and Sidon

9. At 5.30 a.m. on 5 December 1989, an Israeli detachment entered the village of Braashit in the district of Bent Jbeil, where it blew up the house of Yusuf Hassan Muzhir (aged 50) before withdrawing at 6 p.m.

10. At 6.30 a.m. on the same day, the village of Haddata in the district of Bent Jbeil came under artillery fire from the border strip, as a result of which Mansour Faiz Mansour (aged 45), his wife Zeinab Heibi Shito (aged 36) and their children Rajana (aged 17), Fatima (aged 16), Alin (aged 14), Faiz (aged 13), Hassan (aged 11), Maryam (aged 9) and Amal (aged 4), as well as Ali Hijazi (aged 50) and his wife Wasila Shito (aged 40), were wounded. Extensive damage was also caused to property.

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COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Item 13 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND DEPENDENT COUNTRIES AND TERRITORIES

Note verbale dated 22 December 1989 from the Permanent Mission of Lebanon to the United Nations Office at Geneva addressed to the Centre for Human Rights

1. The Permanent Mission of Lebanon to the United Nations Office at Geneva presents its compliments to the Centre for Human Rights and, with reference to its notes 399/15 of 4 December 1989 and 415/15 of 19 December 1989, has the honour to inform the Centre that, since the beginning of December 1989, the Israeli occupation authorities and the militias under their control have been conducting a large-scale campaign of arrests in the Hasbaya area in the so-called "security belt" which Israel occupies in South Lebanon. During this campaign, which has focused on Hasbaya, the administrative centre of the area, they have arbitrarily detained 11 persons, including 3 women, who were transported to the Khiyam detention centre for interrogation, in the course of which they were subjected to various forms of mental and physical torture.

2. The names of these detainees are as follows: Amal Mahfouz, the mother of five children, the eldest being under seven years of age and the youngest an unweaned infant; Fadi Abdul Latif al-Murr and Zaki Abu Hamad, who are first-aid workers employed by the Lebanese Red Cross; Bilal Muhammad al-Murr; Marwan Faiz al-Murr; Muhammad Qasim Abu Salih; Naif Yusuf Abu Asi, who is a soldier in the Lebanese army; Zakariya Muhammad Abu Salih; and Ihsan Maarouf Shahhadeh.

3. The Lebanese Government believes that the campaign of arrests that the Israeli occupation authorities and their militias are conducting among Lebanese citizens reveals Israel's deliberate intention of promoting a climate

of terror and oppression in the area with a view to inducing its population to deal with the occupation forces and submit to the policy of subjugation that those forces are pursuing in that area.

4. The Lebanese Government protests strongly against these Israeli practices, which repeatedly violate the human rights of Lebanese citizens in occupied South Lebanon, and once again calls upon the Commission on Human Rights to condemn this campaign and the acts of torture and terrorism that it involves. The Lebanese Government urges the Commission to exert all its moral authority and bring pressure to bear on Israel to cease this campaign forthwith and to release all the Lebanese detainees that it is holding.

5. The Lebanese Government hopes that the Commission on Human Rights will shoulder its responsibilities, investigate the recurrent Israeli violations of human rights in the territories that Israel occupies in South Lebanon and bring pressure to bear on the Israeli authorities to respect international treaties and conventions, particularly the Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War, and permit representatives of the International Red Cross and humanitarian organizations to visit Lebanese detainees at the detention centres that have been established in occupied Lebanese territory and in Israeli prisons in order to ascertain their situation.

6. The Mission requests that this note be distributed as an official document of the Commission on Human Rights.

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Forty-sixth session
Agenda items 10 and 13

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 22 January 1990 from the Permanent Representative of Democratic Kampuchea to the United Nations Office at Geneva, addressed to the Under-Secretary-General for Human Rights

I have the honour to enclose herewith an open letter, dated 14 January 1990, addressed by H.R.H. Samdech Norodom Sihanouk to the Powers of the free world whose Governments are preparing to "drop Sihanouk and the CGDK" and "embrace" the Hun Sen (Phnom Penh) régime (A/45/83).

I should be grateful if you would kindly arrange for this open letter by H.R.H. Samdech Norodom Sihanouk to be circulated as an official document of the Commission on Human Rights at its forty-sixth session under agenda item 10: "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and agenda item 13 "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".

(Signed) NGO Hac Team

Ambassador
Permanent Representative

GE.90-10160/5096A

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COMMISSION ON HUMAN RIGHTS

Forty-sixth session
Agenda item 9

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Note by the Secretariat

The Permanent Representative of the Socialist Republic of Viet Nam to the United Nations Office at Geneva, by letters dated 19 and 30 January 1990, requested the circulation of three documents to the Commission on Human Rights on agenda item 9. Two of them have already been circulated to the General Assembly as documents A/44/596 and A/44/699, and are available.

The third document is attached to the present note.

MAJOR NEW POSITIVE DEVELOPMENTS IN 1989 TOWARDS THE SETTLEMENT OF THE CAMBODIAN ISSUE

As the trend towards settling the Cambodian conflict by political means continues, further positive developments took place in 1989 in the search for a political solution to the issue.

The following is a summary, in chronological order, of the major events which reflect such new and positive developments:

February 1989: The Second Jakarta Informal Meeting (JIM2) with the participation of the two opposing Cambodian forces and the two groups of States in South-East Asia furthered the result of the First Jakarta Informal Meeting (JIM1 - July 1988) by reaching consensus conclusions on the two interlinked key issues of a comprehensive solution to the Cambodian problem, namely the withdrawal of Vietnamese troops from Cambodia and the prevention of the return of the genocidal Pol Pot régime in Cambodia; the withdrawal of Vietnamese troops to be linked with the cessation of all foreign interference and external arms supplies to all the Cambodian parties and with preventing the Pol Pot clique from pursuing their civil war and re-establishing their genocidal régime.

5 April 1989: Cambodia and the Socialist Republic of Viet Nam, with the concurrence of the Lao Democratic People's Republic, issued a joint declaration announcing that remaining Vietnamese volunteer troops would be completely withdrawn from Cambodia by the end of September 1989.

20 July 1989: The National Assembly of Cambodia declared its permanent neutrality.

31 July to 31 August 1989: The International Conference on Cambodia was convened in Paris with the participation of all five permanent members of the United Nations Security Council together with other most directly interested countries, under the co-presidency of France and Indonesia. In spite of some differences related mainly to a power-sharing arrangement including the Khmer Rouge, the Conference identified important areas of agreement, laying foundations for the early attainment of a comprehensive political settlement of the Cambodian problem. The Conference reached agreement on the total withdrawal of Vietnamese troops from Cambodia, the non-return to power of the genocidal régime in Cambodia, the cessation of foreign military aid to the Cambodian parties, the respect of the independence, sovereignty, neutrality, and non-alignment of Cambodia, the implementation of the Cambodian people's right to self-determination through free, equitable and democratic general elections, the international guarantee of agreements to be signed and the setting up of an international control mechanism for the implementation of the agreements.

At the Conference, the delegation of Viet Nam affirmed its commitment to an overall political solution to the Cambodian issue that could bring about lasting peace and stability to Cambodia and South-East Asia as a whole. However, in view of the complexity of the Cambodian question, it held that while a comprehensive settlement could not yet be achieved in the immediate future, the countries and parties involved should sit together to tackle first what could more readily be tackled, and thus proceed eventually towards a comprehensive solution. It believed this to be the most realistic and constructive approach.

21 to 26 September 1989: Strictly abiding by its commitment made in its declaration of 5 April, Viet Nam completed the withdrawal of its last troops from Cambodia under the witness of over 100 observers from 20 countries, 6 international organizations and over 400 foreign journalists and correspondents, most of whom were Americans, Japanese and Western Europeans.

As of 27 September 1989, there no longer remains a single member of the Vietnamese armed forces (be they a soldier, a military adviser or any other military personnel) in Cambodia in whatever form.

23 September 1989: The Prime Minister of Thailand put forward an initiative that calls for a cease-fire between the Cambodian parties and the convening of another informal meeting on Cambodia in Jakarta. This initiative enjoyed approval by many countries, including Cambodia and Viet Nam.

On the same day, in their joint statement, the Soviet Foreign Minister and the United States Secretary of State declared their readiness to announce, together with other States, a moratorium on military assistance to all Cambodian parties as part of a comprehensive settlement.

24 November 1989: The Australian Foreign Minister put forward a proposal concerning the United Nations role in settling the Cambodian issue, according to which the administration of Cambodia in the interim period prior to the holding of general elections would be undertaken by the United Nations and the Cambodian seat at the United Nations would be left vacant.

10 December 1989: The Chairman of the Council of Ministers and Foreign Minister of the State of Cambodia, Mr. Hun Sen, responded positively to the proposal of the Australian Foreign Minister, and said that this proposal, and the Namibia formula sponsored by the United Nations, could be combined to form the basis for discussing the Cambodian issue. This was the first time that Cambodia had indicated acceptance of the full role of the United Nations.

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Forty-sixth session
Agenda item 11

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Note by the Secretariat

This report has been submitted by the Council of Europe in accordance with Economic and Social Council resolution 1159 (XLI) of August 1966 concerning the activities of the Council of Europe in the field of Human Rights during 1989.

COUNCIL OF EUROPE

ACTIVITIES IN THE FIELD OF HUMAN RIGHTS

DURING 1989

CHAPTER I - Application of the European Convention on Human Rights and its Protocols

Section 1 - Signatures, ratifications, declarations

22 of the 23 member States of the Council of Europe are parties to the European Convention on Human Rights; Finland, which acceded to the Council of Europe on 5 May 1989, is not yet a Party to the Convention. On 22 March 1989 San Marino made a declaration under Article 25 of the Convention recognising for three years the competence of the European Commission of Human Rights to receive individual petitions. The number of States having recognised the competence of the Commission to receive individual petitions is therefore 22. (ie. all the States Parties to the Convention)

On 22 March 1989 San Marino recognised for three years the compulsory jurisdiction of the European Court of Human Rights. Thus all the States Parties, except Turkey, have made the declaration under Article 46 of the Convention.

Protocol No. 1 to the Convention has not yet been ratified by Liechtenstein, Spain and Switzerland, while Protocol No. 2 has been ratified by all the States Parties.

Protocol No. 4 to the Convention, securing certain rights and freedoms other than those already included in the Convention and the First Protocol, was in force among 14 States (1). These governments have also extended their acceptance of the compulsory jurisdiction and the right of the individual petition to applications concerning the rights guaranteed in the Fourth Protocol.

Protocol No. 6 to the Convention concerning the abolition of the death penalty, opened for signature on 28 April 1983, entered into force on 1 March 1985. It has been ratified by 14 States (2).

Protocol No. 7 to the Convention, securing five new rights, in force since 1 November 1988, has been ratified by 10 States, ie Austria, Denmark, France, Greece, Iceland, Luxembourg, Norway, San Marino, Sweden and Switzerland.

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(1) Austria, Belgium, Denmark, France, Federal Republic of Germany, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, San Marino, Sweden.

(2) Austria, Denmark, France, Federal Republic of Germany, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, San Marino, Spain, Sweden and Switzerland.

Protocol No. 8 concening the procedure both of the European Commission and European Court of Human Rights opened for signature on 19 March 1985 will come into force on 1 January 1990. It has now been ratified by all State Parties to the Convention.

The European Agreement relating to persons participating in proceedings of the European Commission and the Court of Human Rights, which entered into force on 17 April 1971, has been ratified by 19 States (1).

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(1) Austria, Belgium, Cyprus, Denmark, France, Republic Federal of Germany, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, United Kingdom.

Section 2 European Commission of Human Rights

The European Commission of Human Rights is composed of 21 members who are elected for six years by the Committee of Ministers of the Council of Europe and sit on the Commission in their individual capacity. The Commission meets in Strasbourg and normally holds five sessions of two-weeks each. It may decide to hold such additional sessions as circumstances may require. In 1988 the Commission was assisted in all its functions by a permanent secretariat composed of 32 lawyers and 18 administrative assistants.

During 1988 the Commission's Secretariat opened 4,108 provisional files and registered 1,009 individual applications. The total number of applications pending before the Commission on 31 December 1988 was 1,667. There still remains an important backlog of cases before the Commission: whereas on 31 December 1987 a total of 1,029 cases were awaiting a first examination by the Commission, there were still 1,326 cases in that position on 31 December 1988.

In 1988 the Commission held altogether nine sessions, namely five regular two-week sessions and four additional sessions of one week devoted mainly to hearings.

Decisions, Sessions, Hearings

- Decisions

In 1988 the Commission gave notice of 196 individual applications to the Governments concerned in order to obtain written observations on the admissibility and merits. The Commission furthermore delivered 654 decisions concerning individual applications of which

535 were declared inadmissible

67 were struck off the list

52 were declared admissible (see list in the Appendix)

The Commission adopted 36 Reports, namely:

28 on the question of violation under Art. 31 of the Conventic

8 on a friendly settlement reached under Art. 30 of the Convention

3 striking the case off the list under Rule 54 of the Rules of Procedure.

- Sessions

The Commission held 9 sessions in 1988:

191st session	:	18 January	-	22 January
192nd session	:	29 February	-	11 March
193rd session	:	11 April	-	15 April
194th session	:	2 May	-	13 May
195th session	:	4 July	-	15 July
196th session	:	5 September	-	9 September
197th session	:	3 October	-	14 October
198th session	:	7 November	-	11 November
199th session	:	5 December	-	16 December

- Hearings

The Commission held 33 oral hearings in individual applications, namely 29 on admissibility and merits and 4 on merits only.

Legal Aid

The Commission's power to grant free legal aid stems from Resolution (63) 18, adopted on 25 October 1963 by the Committee of Ministers. The provisions governing the grant of legal aid are set out in the Addendum to the Commission's Rules of Procedure.

In 1988, 39 applicants received legal aid from the Commission. The necessary appropriations are made each year in the Council of Europe's budget. The total sum of expenditure under the legal aid scheme in 1988 was approximately 421.000 FF.

Publications prepared by the Secretariat of the European Commission of Human Rights (Rule 20 of the Rules of Procedure of the Commission)

These publications include:

- Press reviews

The reviews include information notes concerning sessions, announcements of sessions and press releases on individual cases after oral hearings. A total of 48 press reviews were published in 1988.

- "Decisions and Reports"

This publication contains complete texts or extracts from the most significant decisions on the admissibility of applications, as well as the Commission's Reports where they have been made public, except on cases which have been brought before the European Court of Human Rights (these Reports are published by the Court itself).

3 volumes appeared in 1988:

No. 41 (April 1985)
No. 42 (July 1985)
No. 43 (October 1985)

as well as a special volume of Summaries and Indexes concerning volumes 21-40.

- Minutes of the session

The minutes with their Council of Europe reference numbers are the following:

DH (88) 1	-	191st session
DH (88) 2	-	192nd session
DH (88) 3	-	193rd session
DH (88) 6	-	194th session
DH (88) 7	-	195th session
DH (88) 8	-	196th session
DH (88) 9	-	197th session
DH (88) 10	-	198th session
DH (88) 11	-	199th session

- "Stock-taking on the European Convention on Human Rights" - Supplement 1987

A yearly supplement to the Stock-taking on the European Convention on Human Rights - A periodic note on the concrete results achieved under the Convention: The first thirty years: 1954 until 1984, by the Secretary to the European Commission of Human Rights.

Section 4 - Activities of the Committee of Ministers of the Council of Europe with respect to the implementation of the European Convention on Human Rights

The Committee of Ministers of the Council of Europe is called on to perform two functions within the framework of the Convention. Firstly, when a case has not been referred to the European Court within the time allowed for under paragraph 1 of Article 32 of the Convention, ie three months from the date of the transmission to the Committee of Ministers of the Commission's report, the Committee of Ministers is required to take a decision on whether or not the Convention has been violated. Secondly, when the European Court has made a final ruling on a case, it is up to the Committee of Ministers to supervise the execution of the judgment of the Court in accoprdance with Article 54 of the Convention.

I. APPLICATION OF ARTICLE 32 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

During the period in question, the Committee of Ministers has undertaken the following action in application of Article 32 of the European Convention on Human Rights:

SALLUSTIO against Italy	Resolution DH (89) 1 of 18 January 1989
WARWICK against the United Kingdom	Resolution DH (89) 5 of 2 March 1989
VEIT against the Federal Republic of Germany	Resolution DH (89) 6 of 2 March 1989
MINNITI against Italy	Resolution DH (89) 7 of 2 March 1989
MARINUCCI against Italy	Resolution DH (89) 11 of 27 April 1989
USKELA against Sweden	Resolution DH (89) 14 of 26 May 1989
INGRID JORDEBO FOUNDATION OF CHRISTIAN SCHOOLS against Sweden	Resolution DH (89) 15 of 26 May 1989
L against Sweden	Resolution DH (89) 16 of 15 June 1989
J against the United Kingdom	Resolution DH (89) 17 of 15 June 1989
MLYNEK against Austria	Resolution DH (89) 19 of 19 September 1989
KARNI against Sweden	Resolution DH (89) 20 of 19 September 1989
GRACE against the United Kingdom	Resolution DH (89) 21 of 19 September 1989

W. against the United Kingdom	Resolution DH (89) 27 of 19 September 1989
ZENGIN against the Federal Republic of Germany	Resolution DH (89) 29 of 10 November 1989
AKDOGAN against the Federal Republic of Germany	Resolution DH (89) 28 of 10 November 1989
BIONDO against Italy	Resolution DH (89) 30 of 10 November 1989

II. APPLICATION OF ARTICLE 54 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

During the period in question, the Committee of Ministers has undertaken the following action in application of Article 54 of the European Convention on Human Rights:

UNTERPERTINGER against Austria	Resolution DH (89) 2 of 18 January 1989
X and Y against the Netherlands	Resolution DH (89) 3 of 19 January 1989
ÖZTÜRK against the Federal Republic of Germany	Interim Resolution DH (89) 8
F against Switzerland	Interim Resolution DH (89) 9 of 2 March 1989
VOUKAM MOUDEFO against France	Resolution DH (89) 10 of 2 March 1989 friendly settlement
SCHÖNENBERGER AND DURMAZ against Switzerland	Resolution DH (89) 12 of 27 April 1989
BERREHEEB against the Netherlands	Resolution DH (88) 13 of 27 April 1989
WEEKS against the United Kingdom	Resolution DH (89) 18 of 15 June 1989
MARTINS MOREIRA against Portugal	Resolution DH (89) 22 of 19 September 1989
NEVES E SILVA against Portugal	Resolution DH (89) 23 of 19 September 1989
BELILOS against Switzerland	Resolution DH (89) 24 of 19 September 1989
BOCK against the Federal Republic of Germany	Resolution DH (89) 25 of 19 September 1989
ÖZTÜRK against the Federal Republic of Germany	Resolution DH (89) 31 of 10 November 1989

CHAPTER II - Other measures concerning the protection of human rights

Section 1 - Implementation of the Medium-Term Plan in the field of human rights

i. Reinforcing the effectiveness of the European Convention on Human Rights

The Steering Committee for Human Rights (CDDH) adopted a report on the establishment of the European Commission of Human Rights on a semi-permanent basis. This proposal aims at enabling the Commission to come to grips with the steadily increasing number of applications from individuals and to cope with the particular serious problems confronting it. In September 1989 the Ministers' Deputies decided to establish, as of January 1990, a system whereby payment of retainers would be made to members of the Commission in advance on a monthly basis, with a fixed minimum threshold of participation entitling the payment of the said retainer.

The Steering Committee for Human Rights considered the possibility of merging the European Commission and the European Court of Human Rights in the light of a report prepared by the Committee of Experts for the improvement of procedures for the protection of human rights (DH-PR) and of Recommendation 1087 (1988) of the Parliamentary Assembly. It instructed the DH-PR to draw up the detailed structure of a possible single Court system.

Other possible improvements to the procedures under the European Convention on Human Rights under consideration are the publication of Reports of the Commission drawn-up under Article 31 and the reduction of the two-thirds majority as provided in Article 32, paragraph 1, of the Convention. The consideration of the advisability of enabling individual applicants to refer admitted cases to the European Court of Human Rights, with regard to the complexity of the issue, was postponed until the year 1990.

ii. Specific judicial guarantees in relation to administrative procedures

The CDDH is considering a draft Protocol to the European Convention on Human Rights on specific judicial guarantees in relation to administrative procedures, which is designed to overcome the uncertainty which flows from the existing case-law of the Commisison and Court in this area.

iii. Human Rights without Frontiers

Organised by the Committee of Experts for the promotion of education and information in the field of human rights (DH-ED), a Colloquy on "Human Rights without Frontiers" took place on 30 November and 1 December 1989.

The objectives of the Colloquy were as follows:

- to increase official sensitivity towards the human rights and humanitarian problems of a particularly vulnerable group of persons, namely [the rights of] persons requesting entry into a country;

- to ensure a better understanding of the Council of Europe's human rights activities and especially those relating to non-nationals; and

- to develop training programmes for immigration officials and frontier police.

The colloquy concentrated on human rights issues relating to the reception of migrants, notably those which concern asylum seekers and family reunion.

Section 2 - European Convention for the Prevention of Torture

The European Convention for the prevention of torture and inhuman or degrading treatment or punishment entered into force on 1 February 1989. It has been signed by all member States of the Council of Europe and ratified to date by fifteen of them (1).

The Convention makes provision for a Committee empowered to examine the treatment of persons deprived of their liberty and for that purpose to visit places where such persons are held. The Committee may make recommendations to the public authorities in order to strengthen the protection of these persons from torture and inhuman or degrading treatment or punishment. The Convention foresees periodic visits as well as such other visits as are required in the circumstances.

The Committee held its first meeting from 13 to 16 November 1989. The Committee elected its Bureau (President: Mr Antonio Cassese (Italy); 1st Vice-President: Mr Bent Sørensen (Denmark); 2nd Vice-President: Mr Jacques Bernheim (Switzerland)) and adopted its Rules of Procedure. The Committee also examined its working methods and decided in particular to choose in an entirely neutral way, namely by lot, the States in which the first periodic visits would be carried out.

Section 3 - Colloquy on "The Universality of Human Rights in a Pluralistic World

This Colloquy, organised by the Secretary General of the Council of Europe, in co-operation with the International Institute of Human Rights, as part of the Organisation's 40th anniversary celebrations, was held from 17 to 19 April 1989. It brought together some 100 participants from over 40 countries, amongst which the Dalai Lama, Mr Badinter, France's Constitutional Council President and former Minister of Justice, Mr Lopatka, Poland's Supreme Court President, Mr Bedjaoui, Algeria's former Foreign Minister and member of the International Court of Justice, Mr Pathak, India's Chief of Justice and Mrs Hersch, Professor of Philosophy at the University of Geneva.

The two major themes of the Colloquy were "The difficult advance of human rights towards universality" and "The universality of human rights, a challenge for tomorrow's world".

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(1) Austria, Cyprus, Denmark, France, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Spain, Sweden, Switzerland, Turkey, United Kingdom.

Section 4 - European Human Rights Prize

On the basis of proposals submitted by the Assembly, the Committee of Ministers decided to award the European Human Rights Prize for 1989 jointly to Mr Lech Walesa and the International Helsinki Federation for Human Rights (IHF) (Vienna), considering that the two prize-winners had served the cause of human rights in an outstanding manner in conformity with the principles of individual liberty, political freedom and the pre-eminence of law, which form the basis of any truly democratic society and which are guaranteed in particular by the European Convention on Human Rights. The prize was awarded on 10 May 1989 in the presence of the President of the Assembly and the President of the Committee of Ministers.

Section 5 - 40th Anniversary of the Universal Declaration of Human Rights

At its 83rd Session, the Committee of Ministers paid tribute to the untiring efforts of the United Nations and its Secretary General in order to find peaceful settlement for regional conflicts and appealed to the international community, when seeking to solve such conflicts, to seek solutions that respect human rights and individual freedoms. To support the United Nations efforts and following a proposal made by the Steering Committee for Human Rights, the Committee of Ministers adopted a message on the occasion of the 40th anniversary of the Universal Declaration of Human Rights.

Texts adopted by the Parliamentary Assembly in 1989

having a bearing on Human Rights

PARLIAMENTARY ASSEMBLY
OF THE
COUNCIL OF EUROPE

FORTY-FIRST ORDINARY SESSION

RESOLUTION 927 (1989)[1]

on the situation of the ethnic and Muslim minority in Bulgaria

The Assembly,

1. Considering its Resolution 846 (1985) on the situation of ethnic and Muslim minorities in Bulgaria, its Recommendation 1109 (1989) on the situation of refugees of Bulgarian nationality in Turkey, and the report on the situation of the ethnic and Muslim minority in Bulgaria presented by its Committee on Relations with European Non-Member Countries (Doc. 6106);

2. Noting with satisfaction that the Bulgarian authorities finally received a sub-committee of the Assembly from 13 to 19 July 1989 under the required conditions, namely that it should be able to choose where it went and with whom it spoke and use its own interpreters;

3. Regretting, however, that it did not have the opportunity of meeting all the "dissidents" mentioned in the programme;

4. Taking note of the following information brought back by the sub-committee:

i. a major human tragedy is taking place in Bulgaria, with hundreds of thousands of Bulgarian Muslims leaving for Turkey;

ii. these Muslims are leaving the country both because of the serious denial of their rights — name-changing, ban on speaking Turkish and restrictions on the practice of their religion — and because they are encouraged by offers of resettlement through the Turkish media;

1. *Assembly debate* on 26 September 1989 (17th Sitting) (see Doc. 6106, report of the Committee on Relations with European Non-Member Countries, Rapporteur: Mr Probst).

Text adopted by the Assembly on 26 September 1989 (17th Sitting).

ASSEMBLÉE PARLEMENTAIRE
DU
CONSEIL DE L'EUROPE

QUARANTE ET UNIÈME SESSION ORDINAIRE

RÉSOLUTION 927 (1989)[1]

relative à la situation de la minorité ethnique et musulmane en Bulgarie

L'Assemblée,

1. Considérant sa Résolution 846 (1985) relative à la situation des minorités ethniques et musulmanes en Bulgarie, sa Recommandation 1109 (1989) relative à la situation des réfugiés de nationalité bulgare en Turquie, et le rapport sur la situation de la minorité ethnique et musulmane en Bulgarie présenté par sa commission des relations avec les pays européens non membres (Doc. 6106);

2. Notant avec satisfaction que les autorités bulgares ont finalement accueilli du 13 au 19 juillet 1989 une sous-commission de l'Assemblée dans les conditions requises: itinéraire et interlocuteurs de son choix, et ses propres interprètes;

3. Regrettant toutefois qu'elle n'a pas eu l'occasion de rencontrer tous les «dissidents» figurant au programme;

4. Prenant note des informations qu'a rapportées la sous-commission:

i. la Bulgarie est en train de connaître une tragédie humaine majeure avec le départ pour la Turquie de centaines de milliers de musulmans bulgares;

ii. ces musulmans quittent le pays d'une part en raison du grave refus de reconnaître leurs droits — changement de noms, interdiction de parler turc et restrictions dans la pratique de leur religion — d'autre part parce qu'ils y sont encouragés par les promesses de réétablissement qui leur sont transmises par les médias turcs;

1. *Discussion par l'Assemblée* le 26 septembre 1989 (17e séance) (voir Doc. 6106, rapport de la commission des relations avec les pays européens non membres, rapporteur: M. Probst).

Texte adopté par l'Assemblée le 26 septembre 1989 (17e séance).

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iii. although there were a number of expulsions in May 1989, since then departures, although nominally voluntary, have constituted a mass exodus;

iv. quite apart from the human tragedy they represent, these departures are not a lasting solution, particularly in view of their consequences both for Bulgaria — loss of manpower and disorganisation of rural life — and for Turkey — reception, accommodation and labour-market problems;

5. Noting that the number of immigrants has reached over 300 000, that, as from 22 August 1989, the Turkish Government decided to re-establish the entrance visa obligation for Bulgarian citizens, and that about 20 000 of them have already returned to Bulgaria;

6. Observing that there is disagreement as to the ethnic identity of the majority of the Muslim community: the Bulgarians say that it is composed of Bulgarians islamised during Ottoman rule and the Turks that it consists of Muslims of Turkish ethnic origin undergoing forced assimilation;

7. Recognising that the amendments to the legislation on nationality and passports adopted by the Bulgarian National Assembly on 8 and 9 May 1989 represent a step forward in terms of the provisions of the instruments adopted within the CSCE and United Nations framework and should help to satisfy Turkey's demands aimed at securing a free choice of homeland for the Bulgarian ethnic and Muslim community and guaranteeing that families are reunited;

8. Welcoming the resolution adopted on 21 September 1989 by the relevant committee of Bulgaria's National Assembly stressing the need that the authorities implement the freedom of religion which is guaranteed by the Constitution as well as the free use of different languages in everyday contacts between citizens, and hoping for an immediate application of this resolution by the Bulgarian Government;

9. Observing that dialogue between the Bulgarian and Turkish Governments is currently at a standstill, and that the protocol which they signed in Belgrade on 23 February 1988 has not been implemented, and encouraging the Council of Europe and its member states to contribute to the opening of a constructive

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iii. s'il y a eu un certain nombre d'expulsions au mois de mai 1989, depuis lors les départs, même s'ils sont formellement volontaires, ont constitué un exode de masse;

iv. à côté des drames humains qu'ils représentent, ces départs ne constituent pas une solution durable, en raison notamment des conséquences qu'ils entraînent pour la Bulgarie — perte de main-d'œuvre et désorganisation de la vie rurale — et pour la Turquie — problèmes d'accueil, de logement et du marché du travail;

5. Constatant que le nombre d'immigrants a dépassé les 300 000, qu'à partir du 22 août 1989 le Gouvernement turc a décidé de rétablir l'obligation de visas d'entrée pour les citoyens bulgares, et qu'environ 20 000 d'entre eux sont déjà retournés en Bulgarie;

6. Observant que l'appartenance ethnique de la majorité de la communauté musulmane reste controversée: pour les Bulgares elle est composée de Bulgares islamisés pendant la domination ottomane, alors que pour les Turcs elle est constituée de musulmans d'appartenance ethnique turque faisant l'objet d'une assimilation forcée;

7. Reconnaissant que les amendements aux lois sur la nationalité et sur les passeports adoptés par l'Assemblée nationale bulgare les 8 et 9 mai 1989 représentent un progrès sensible dans le sens des dispositions des instruments adoptés dans le cadre de la CSCE et des Nations Unies, et qu'ils devraient contribuer à satisfaire les demandes de la Turquie visant à garantir à la communauté ethnique et musulmane de Bulgarie le libre choix de sa patrie et la réunification des familles divisées;

8. Se réjouissant de l'adoption le 21 septembre 1989 par la commission compétente de l'Assemblée nationale de Bulgarie d'une résolution mettant l'accent sur la nécessité pour les autorités de mettre en œuvre la liberté de religion qui est garantie par la Constitution ainsi que le libre usage de différentes langues dans les contacts quotidiens entre les citoyens, et souhaitant une application immédiate de cette résolution par le Gouvernement bulgare;

9. Constatant que le dialogue entre les Gouvernements bulgare et turc est actuellement au point mort, et que le protocole qu'ils ont signé le 23 février 1988 à Belgrade n'a pas été suivi d'effets, et encourageant le Conseil de l'Europe et ses Etats membres à contribuer à l'ouverture d'un dialogue constructif entre les

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dialogue between the Bulgarian and the Turkish Governments with a view to establishing more satisfactory neighbourly relations which will lead to a migration agreement between the two countries;

10. Noting, moreover, that several countries have already put into practice with regard to Bulgaria the control mechanism relating to the human dimension of the CSCE provided for in the concluding document of the January 1989 Vienna Conference;

11. Recalling that, in its Recommendation 1109, adopted on 6 July 1989, the Assembly recommends that the Committee of Ministers "appeal to the governments of member states so that they provide, as a matter of urgency, concrete and co-ordinated aid to Turkey in order that these exiles be accorded a decent reception corresponding to standards of human dignity",

12. Urges the Bulgarian Government:

i. to end immediately its policy of forced assimilation, which is to be regarded as the main cause of the present exodus, with a view to allowing its ethnic and Muslim minority to resume the practical use of their original names, together with the unrestricted use of the Turkish language and of Muslim religious practices;

ii. to grant its ethnic and Muslim minority the rights of a minority in the spirit of the concluding document adopted by the Vienna CSCE review meeting of January 1989;

13. Also urges the Turkish authorities:

i. as a gesture of goodwill, to avoid any propaganda element in its information services to the ethnic and Muslim minority in Bulgaria;

ii. to take the necessary steps to enable separated families to reunite in accordance with their wishes;

14. Demands that both governments examine together what each country can do to help solve the concrete problems of the ethnic and Muslim minority in Bulgaria in order to avoid the mass exodus;

15. Asks the member states of the Council of Europe to promote the opening of negotiations between Bulgaria and Turkey with a view to easing the tension

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Gouvernements bulgare et turc en vue de l'établissement de relations de voisinage plus satisfaisantes, qui aboutira également à un accord sur les migrations, entre les deux pays;

10. Prenant note par ailleurs de ce que plusieurs pays ont déjà mis en œuvre à l'égard de la Bulgarie le mécanisme de contrôle dans le domaine de la dimension humaine de la CSCE prévu par le document de clôture de la Conférence de Vienne de janvier 1989;

11. Rappelant que, dans sa Recommandation 1109, adoptée le 6 juillet 1989, l'Assemblée recommande au Comité des Ministres «d'intervenir auprès des gouvernements des Etats membres pour qu'ils apportent d'urgence une aide concrète et coordonnée à la Turquie pour lui permettre d'offrir à ces exilés un accueil décent et conforme aux exigences de la dignité humaine»,

12. Lance un appel pressant au Gouvernement bulgare pour qu'il:

i. mette immédiatement un terme à sa politique d'assimilation forcée, qui doit être considérée comme la cause principale de l'exode actuel, afin de permettre aux membres de sa minorité ethnique et musulmane de reprendre effectivement leurs noms d'origine, et de recourir sans restriction à l'usage de la langue turque et à la pratique de la religion musulmane;

ii. reconnaisse à sa minorité ethnique et musulmane les droits d'une minorité dans l'esprit du document de clôture de la réunion de Vienne sur les suites de la CSCE à Vienne de janvier 1989;

13. Lance également un appel pressant aux autorités turques pour que:

i. comme geste de bonne volonté, elles évitent d'inclure tout élément de propagande dans les informations qu'elles transmettent à la minorité ethnique et musulmane de Bulgarie;

ii. elles prennent les mesures nécessaires pour permettre aux familles divisées de se réunir selon les modalités qu'elles souhaitent;

14. Demande aux deux gouvernements d'examiner ensemble ce que chaque pays peut faire pour aider à résoudre les problèmes concrets de la minorité ethnique et musulmane en Bulgarie et éviter l'exode de masse;

15. Demande aux Etats membres du Conseil de l'Europe de promouvoir l'ouverture de négociations entre la Bulgarie et la Turquie en vue du relâchement

between the two countries, which could have dangerous political and economic consequences for the whole of the continent;

16. Instructs its Committee on Migration, Refugees and Demography to examine on the spot the conditions under which Muslims from Bulgaria are received and settled in Turkey, to check that compliance with Assembly Recommendation 1056 on national refugees and missing persons in Cyprus is observed, and report back to it in due course, with proposals, in the light of Recommendation 1109, on the level of assistance the member states of the Council of Europe should supply to the Turkish Government to carry out its resettlement programme.

de la tension entre ces deux pays qui peut conduire à des conséquences politiques et économiques dangereuses pour l'ensemble du continent;

16. Charge sa commission des migrations, des réfugiés et de la démographie d'examiner sur place dans quelles conditions les musulmans en provenance de Bulgarie sont accueillis et installés en Turquie, de vérifier si le respect de la Recommandation 1056 de l'Assemblée relative aux réfugiés nationaux et aux personnes disparues à Chypre est assuré, et de lui faire rapport en temps utile, avec des propositions, à la lumière de la Recommandation 1109, quant au niveau de l'aide que les Etats membres du Conseil de l'Europe devraient offrir au Gouvernement turc pour la réalisation de son programme de réétablissement.

PARLIAMENTARY ASSEMBLY
OF THE
COUNCIL OF EUROPE

FORTY-FIRST ORDINARY SESSION

RESOLUTION 928 (1989)[1]

on arms sales and human rights

The Assembly,

1. Recognising the inalienable right of every country to defend itself individually or collectively in the event of armed attack, in accordance with Article 51 of the United Nations Charter, and the right of nations to ask for aid and assistance from other countries to ensure respect for that principle;

2. Aware also of the substantial political, economic and commercial interests involved in the international trade in all kinds of armaments, including foreign policy, balance of payments, economies of scale and employment considerations in the exporting countries;

3. Convinced that current levels of arms exports, while now declining, clearly go beyond that required for the legitimate self-defence and security purposes of many recipient nations, and that purchases of arms are often pursued at the expense of the economic and social development of countries in the Third World;

4. Realising, furthermore, that employment in the armaments sector is highly uncertain due to fluctuating sales, that the spin-off from military to civilian technology is often highly overestimated, and that the "multiplier effect" of civilian exports is much greater in Third World countries than is the case with arms sales;

5. Believing, too, that many arms exports may be used for the violation of human rights over which the exporting country has no control, except to refuse to

1. *Assembly debate* on 27 September 1989 (19th Sitting) (see Doc. 6115, report of the Political Affairs Committee, Rapporteur: Mr Speed; and Doc. 6094, opinion of the Committee on Economic Affairs and Development, Rapporteur: Mr Holtz).

Text adopted by the Assembly on 27 September 1989 (19th Sitting).

ASSEMBLÉE PARLEMENTAIRE
DU
CONSEIL DE L'EUROPE

QUARANTE ET UNIÈME SESSION ORDINAIRE

RÉSOLUTION 928 (1989)[1]

relative au commerce des armes et aux droits de l'homme

L'Assemblée,

1. Reconnaissant le droit inaliénable de tout pays de se défendre individuellement ou collectivement en cas d'attaque armée, conformément à l'article 51 de la Charte des Nations Unies, et le droit des nations de demander aide et assistance à d'autres pays afin d'assurer le respect de ce principe;

2. Consciente également des substantiels intérêts politiques, économiques et commerciaux des pays exportateurs dans le commerce international de toutes sortes d'armements, intérêts qui touchent à la politique étrangère, à la balance des paiements, aux économies d'échelle et à des considérations d'emploi;

3. Convaincue que le volume actuel des exportations d'armes, bien qu'en diminution, dépasse nettement ce qui est nécessaire à des fins légitimes d'autodéfense et de sécurité pour de nombreuses nations importatrices, et que les achats d'armes se font souvent au détriment du développement économique et social des pays du tiers monde;

4. Constatant, par ailleurs, que l'emploi dans le secteur des armements est très incertain en raison des fluctuations dans les ventes, que souvent les retombées de la technologie militaire dans le domaine civil sont fortement surestimées et que l'« effet multiplicateur » des exportations civiles est beaucoup plus grand pour les pays du tiers monde que dans le cas des ventes d'armes;

5. Croyant également que de nombreuses exportations d'armes peuvent être utilisées pour la violation des droits de l'homme sur laquelle le pays exportateur

1. *Discussion par l'Assemblée* le 27 septembre 1989 (19e séance) (voir Doc. 6115, rapport de la commission des questions politiques, rapporteur: M. Speed; et Doc. 6094, avis de la commission des questions économiques et du développement, rapporteur: M. Holtz).

Texte adopté par l'Assemblée le 27 septembre 1989 (19e séance).

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export arms which could be used for domestic repression, and recalling, in this context, its Recommendation 962 (1983) on development co-operation and human rights, stating that the "principle of non-interference in the domestic affairs of other states should not apply whenever human rights are at stake", and the positive reply thereto by the Committee of Ministers;

6. Concerned that the full facts and figures of international arms sales are not always revealed to the parliaments or public of member countries; and that the final destination of arms as defined in end-user certificates can be concealed;

7. Alarmed also that arms sales increasingly involve not only traditional arms, but also systems that permit the production and launching of even more ominous weapons or weapon components (such as nuclear, chemical and biological ones) with incalculable consequences for the regions concerned and the world as a whole;

8. Hopeful that the vastly improved relations between East and West can lead to more effective arms sales control on an international scale, while aware that the main threat to world peace now could come from escalating Third World conflicts fed by arms exports from the developed world;

9. Convinced that the above situation requires particularly strong political guidance and parliamentary involvement as well as closer international co-operation and assistance, to help assist recipient states with confidence-building measures for their internal and external security and with practical advice on the economics of disarmament and development,

10. Calls upon the Council of Europe member states:

a. to work in favour of reduced, better controlled arms exports to Third World countries, and to create, as a first step, control mechanisms, including at parliamentary level, to oversee hardware arms exports in particular;

b. to initiate the setting up of an open register on the production of and trade in conventional weapons, to which all members of the United Nations will be invited to adhere, such a register to be organised in

n'a d'autre contrôle que le refus d'exporter des armes utilisables pour la répression intérieure, et rappelant dans ce contexte sa Recommandation 962 (1983) relative à la coopération au développement et aux droits de l'homme, déclarant que « le principe de la non-ingérence dans les affaires intérieures d'autres Etats ne s'applique pas lorsque sont mis en cause les droits de l'homme », ainsi que la réponse positive du Comité des Ministres;

6. Inquiète de ce qu'on ne révèle pas toujours au parlement et au public des pays membres les faits et les chiffres des ventes internationales d'armes, et que la destination finale des armes telle que définie dans les certificats de dernier utilisateur peut être cachée;

7. S'inquiétant également de ce que de plus en plus les ventes d'armes ne portent pas seulement sur les armes traditionnelles, mais aussi sur les systèmes qui permettent la production et le lancement d'armes ou de composants encore plus sinistres (par exemple nucléaires, chimiques et biologiques) aux incalculables conséquences pour les régions visées et pour le monde tout entier;

8. Espérant que les relations largement améliorées entre Est et Ouest pourront permettre un contrôle plus efficace des ventes d'armes à l'échelle internationale, et pensant que la principale menace à la paix mondiale pourrait venir aujourd'hui de l'escalade de conflits du tiers monde nourris par les exportations d'armes des pays développés;

9. Convaincue que cette situation exige une conduite politique rigoureuse et une participation parlementaire, ainsi qu'une coopération et aide internationales plus étroites afin d'apporter aux pays importateurs, par des mesures génératrices de confiance, une sécurité interne et externe, et des conseils pratiques sur les aspects économiques du désarmement et du développement,

10. Invite les Etats membres du Conseil de l'Europe:

a. à favoriser la réduction et un meilleur contrôle des exportations d'armes vers le tiers monde, et à créer, dans un premier temps, des mécanismes de contrôle, y compris au niveau parlementaire, concernant en particulier les exportations de matériel lourd proprement dit;

b. à préconiser la création d'un registre ouvert de la production et du commerce des armes classiques, auquel seront incités à adhérer tous les Etats membres des Nations Unies, un tel registre étant

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co-operation with existing specialist organisations such as the Stockholm International Peace Research Institute (SIPRI) and the London International Institute for Strategic Studies (IISS);

c. to establish common criteria and definitions for arms sales, including modernisation and maintenance of equipment already supplied, to draw attention to the risk of armed conflict in the regions of recipient states, and to pay particular regard to international obligations in the field of human rights;

d. to incorporate, where this is not already the case, such criteria in their national legislation while ensuring that they are scrupulously adhered to, and to establish parliamentary control bodies to this end;

e. to use their best endeavours to promote an international conference under the auspices of the United Nations, with the active participation of all the major arms-exporting countries, with a view to limiting, monitoring and controlling arms exports, bearing especially in mind the dangers to world peace of Third World conflicts, and to create towards this end a co-ordinating body on North-South arms trade policies;

f. to promote, using where possible existing regional organisations, confidence-building and enhanced security measures for recipient countries consistent with programmes reducing levels of arms exports;

g. to urge Third World countries to devote scarce resources primarily to civilian investment, rather than excessive armament, making this one of the factors to be considered when granting official development assistance and debt relief, and to promote democracy in Third World societies aimed at the realisation of human rights and socially and environmentally sound policies, and hence help avoid their militarisation;

h. to build upon the 1982 United Nations' proposals and encourage national studies on the economics and practicalities of disarmament and development that can be implemented by exporting and recipient states alike;

i. to ask the Organisation for Economic Co-operation and Development (OECD) to study the

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organisé en coopération avec des organismes spécialisés existants, tels que l'Institut international de recherche sur la paix de Stockholm (SIPRI) et l'Institut international d'études stratégiques (IISS) de Londres;

c. à établir des définitions et des critères communs pour les ventes d'armes, en tenant compte de la modernisation et de l'entretien des équipements déjà fournis, à attirer l'attention sur le risque de conflits armés dans les régions où se situent les Etats importateurs, et à consacrer une attention particulière aux obligations internationales en matière de droits de l'homme;

d. à inscrire, lorsque tel n'est pas encore le cas, ces critères dans leur législation nationale, tout en veillant à leur application scrupuleuse, et à cette fin prévoir des instances de contrôle parlementaires;

e. à déployer les plus grands efforts pour susciter une conférence internationale sous les auspices des Nations Unies, avec la participation active des principaux pays exportateurs d'armes, en vue de limiter et de contrôler les exportations en cause, en songeant spécialement au danger que comportent les conflits du tiers monde pour la paix mondiale, et à créer à cette fin un organe de coordination pour les politiques de commerce des armes Nord-Sud;

f. à encourager, si possible par l'intermédiaire d'organismes régionaux existants, des mesures génératrices de confiance et d'un accroissement de sécurité pour les pays importateurs, conformément à des programmes de diminution du volume des exportations d'armes;

g. à exhorter les pays du tiers monde à consacrer leurs faibles ressources à des investissements de nature civile essentiellement, et non pas au surarmement, faisant de ce comportement un des facteurs à considérer lors de l'allégement de la dette et de l'octroi de l'aide au développement, et à promouvoir la démocratie dans les sociétés du tiers monde dans le but d'assurer le respect des droits de l'homme et de saines politiques dans le domaine social et de l'environnement, et ainsi contribuer à en éviter la militarisation;

h. s'inspirant des propositions des Nations Unies de 1982, à encourager les études nationales sur les aspects économiques et les possibilités du désarmement et du développement, études qui peuvent être réalisées tant par les Etats exportateurs que par les Etats importateurs;

i. à prier l'Organisation de coopération et de développement économiques (OCDE) d'étudier les

problems, possibilities and consequences related to the conversion from military to civilian production, building on past experiences;

j. to give high priority to encouraging a level of harmonisation of national legislation controlling and licensing arms exports, and to take urgent steps to ensure the credibility of and compliance with end-user certificates for arms export sales with the maximum possible parliamentary scrutiny and contact.

problèmes, les possibilités et les conséquences liées à la transformation de la production militaire en une production civile, en tirant parti des expériences passées;

j. à donner un ordre de priorité élevé à l'encouragement de l'harmonisation des législations nationales de contrôle et d'autorisation des exportations d'armes, et à prendre des mesures d'urgence pour assurer la crédibilité et le respect des certificats de dernier utilisateur pour les exportations d'armes, avec le maximum possible de surveillance et de contacts parlementaires.

PARLIAMENTARY ASSEMBLY
OF THE
COUNCIL OF EUROPE

FORTY-FIRST ORDINARY SESSION

RECOMMENDATION 1114 (1989)[1]

on the situation of minorities in Romania

The Assembly,

1. Considering the report on the situation of minorities in Romania, presented by its Committee on Relations with European Non-Member Countries (Doc. 6105);

2. Recalling the principles underlying its policy of opening up to the countries of Central and Eastern Europe — observance and implementation of international human rights instruments adopted within the framework of the United Nations and the CSCE — and its decision to grant special guest status to the Parliaments of Hungary, Poland, the USSR and Yugoslavia;

3. Recalling that its Committee on Relations with European Non-Member Countries has on many occasions sought to establish a dialogue with the Romanian authorities, and regretting that they did not reply to the invitation to participate in the hearing on the situation of minorities in Romania held in Strasbourg on 3 July 1989;

4. Vigorously condemning the activities of the *Securitate* (political police) and the systematisation plan devised by President Ceauşescu, under which almost half of the 13 000 or so Romanian villages are to be destroyed and whose implementation has already commenced in the Bucharest area;

5. Aware that, while these human rights violations affect the "unhappy Romanian people" as a whole, they are more specifically directed against the Hungarian and the Tzigane minorities, whereas the

1. *Assembly debate* on 26 September 1989 (17th Sitting) (see Doc. 6105, report of the Committee on Relations with European Non-Member Countries, Rapporteur: Mr Noerens).

Text adopted by the Assembly on 26 September 1989 (17th Sitting).

ASSEMBLÉE PARLEMENTAIRE
DU
CONSEIL DE L'EUROPE

QUARANTE ET UNIÈME SESSION ORDINAIRE

RECOMMANDATION 1114 (1989)[1]

relative à la situation des minorités en Roumanie

L'Assemblée,

1. Considérant le rapport sur la situation des minorités en Roumanie, présenté par sa commission des relations avec les pays européens non membres (Doc. 6105);

2. Rappelant les principes sur lesquels repose sa politique d'ouverture vers les pays d'Europe centrale et de l'Est — respect et mise en œuvre des instruments internationaux relatifs aux droits de l'homme conclus dans le cadre des Nations Unies et de la CSCE — sur la base desquels elle a attribué le statut d'invité spécial aux Parlements de la Hongrie, de la Pologne, de l'URSS et de la Yougoslavie;

3. Rappelant que sa commission des relations avec les pays européens non membres a recherché à maintes reprises le dialogue avec les autorités roumaines, et regrettant que celles-ci n'aient pas répondu à l'invitation à participer à l'audition sur la situation des minorités en Roumanie qui s'est tenue le 3 juillet 1989 à Strasbourg;

4. Condamnant de la manière la plus énergique les agissements de la *Securitate* (police politique) et le plan de systématisation du Président Ceauşescu, qui tend à faire disparaître près de la moitié des quelque 13 000 villages roumains, et dont la réalisation a déjà commencé dans la région de Bucarest;

5. Constatant que, si ces violations des droits de l'homme affectent l'ensemble du « malheureux peuple roumain », elles sont plus particulièrement dirigées contre les minorités hongroise et tzigane, alors que

1. *Discussion par l'Assemblée* le 26 septembre 1989 (17e séance) (voir Doc. 6105, rapport de la commission des relations avec les pays européens non membres, rapporteur: M. Noerens).

Texte adopté par l'Assemblée le 26 septembre 1989 (17e séance).

German and Jewish minorities are gradually leaving the country on a fee-paying basis;

6. Noting that, contrary to all its international obligations, the Romanian regime blatantly disregards the rights conferred on its "cohabiting nationalities" in terms of freedom of expression, freedom of the press, freedom to engage in political activities, cultural freedom, freedom of religion and freedom of circulation, and expressing its admiration for the courage and resolution of the Romanian dissidents;

7. Considering that members of the Hungarian minority are increasingly opting for flight to Hungary and that this country, which has acceded to the United Nations Convention relating to the Status of Refugees, deserves the support of the Council of Europe and the assistance of its member states in coping with the increasingly serious problems posed by this influx of refugees;

8. Noting that the Romanian regime is increasingly cutting itself off from the other countries signatory to the Helsinki Final Act, and refuses to recognise the universal nature of human rights or any machinery to promote respect for human rights, including that provided for by the concluding document of the Vienna Conference of January 1989;

9. Convinced that it would be unwise to exclude Romania from the CSCE process, because it is a valuable vehicle for dialogue and international pressure,

10. Recommends that the Committee of Ministers:

i. offer the Hungarian Government its assistance in coping with the influx of Romanian refugees of Hungarian nationality, in particular by inviting it to become an associate member of the Social Development Fund;

ii. urge the governments of the member states:

a. to exercise all such sanctions as may be necessary against the Romanian Government, while carrying out a food-aid programme for the benefit of the Romanian population via non-governmental organisations;

b. to encourage their towns and villages to "adopt" the Romanian villages threatened with destruction, particularly as part of *Opération villages roumains*, in spite of the difficulties they will have to face;

c. to make unremitting use of the means afforded by the supervisory machinery for the human dimension

les minorités allemande et juive quittent progressivement le pays moyennant finances;

6. Notant que, contrairement à tous ses engagements internationaux, le régime roumain fait fi des droits reconnus à ses « nationalités cohabitantes » sur le plan des libertés d'expression, de presse, d'activité politique, de culture, de religion et de circulation, et exprimant son admiration face au courage et à la volonté des dissidents roumains;

7. Considérant qu'un nombre croissant de membres de la minorité hongroise choisit de fuir en Hongrie et que celle-ci, qui a adhéré à la Convention des Nations Unies sur le statut des réfugiés, mérite l'appui du Conseil de l'Europe et l'aide de ses Etats membres face aux problèmes d'accueil de plus en plus sérieux qu'elle connaît;

8. Notant que le régime roumain s'isole de plus en plus au sein de la communauté des pays signataires de l'Acte final d'Helsinki et qu'il refuse de reconnaître le caractère universel des droits de l'homme ainsi que tout mécanisme visant à promouvoir leur respect, notamment celui prévu par le document de clôture de la Conférence de Vienne de janvier 1989;

9. Convaincue qu'il serait inopportun d'exclure la Roumanie du processus de la CSCE, parce que celui-ci constitue un instrument précieux de dialogue et de pression internationale,

10. Recommande au Comité des Ministres:

i. de proposer son assistance au Gouvernement hongrois pour l'accueil des réfugiés roumains de nationalité hongroise, notamment en l'invitant à devenir membre associé du Fonds de développement social;

ii. d'inciter les gouvernements des Etats membres:

a. à appliquer au Gouvernement roumain toutes les sanctions qui s'avèrent nécessaires, tout en mettant en œuvre un programme d'aide alimentaire à la population roumaine par l'intermédiaire des organisations non gouvernementales;

b. à encourager leurs villes et leurs communes à « adopter » les villages roumains menacés de disparition, notamment dans le cadre de l'« Opération villages roumains », tout en sachant les difficultés qui les attendent;

c. à recourir sans relâche aux moyens que leur offre le mécanisme de contrôle de la dimension

of the CSCE provided for in the concluding document of the Vienna Conference of January 1989;

iii. promote a direct dialogue between the Hungarian and Romanian authorities, for instance under the auspices of the Council of Europe;

iv. request the Romanian Government to accept a fact-finding visit by a small group of members of the Committee on Relations with European Non-Member Countries to discuss this recommendation with parliamentarians and appropriate government officials, and to allow it to undertake unsupervised its own programme of visits and meetings using its own interpreters, in preparation for a further report by the committee.

humaine de la CSCE prévu par le document de clôture de la Conférence de Vienne de janvier 1989;

iii. de promouvoir un dialogue direct entre les autorités hongroises et roumaines, par exemple sous les auspices du Conseil de l'Europe;

iv. de demander au Gouvernement roumain d'accepter une visite d'information d'un groupe restreint de membres de la commission des relations avec les pays européens non membres pour discuter cette recommandation avec des parlementaires et agents gouvernementaux appropriés, et d'autoriser ce groupe à entreprendre sans surveillance son propre programme de visites et de rencontres en employant ses propres interprètes, en guise de préparation à un prochain rapport par la commission.

Convention on Human Rights, either by adding health to the prohibited grounds of discrimination or by drawing up a general clause on equality of treatment before the law;

B. invite those member states which have not already done so to ratify the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data;

C. instruct the Committee of experts on data protection to investigate the problems arising in connection with computerised data concerning carriers of the HIV virus;

D. invite the member states of the Council of Europe:

i. to make all necessary arrangements for protecting the confidentiality and/or anonymity of seropositive persons and AIDS victims;

ii. not to apply Article 5, paragraph 1.*e*, of the European Convention on Human Rights to justify automatic isolation or hospitalisation solely on grounds that the applicant or holder is infected by the HIV virus;

iii. not to refuse the right of asylum on the sole ground that the asylum-seeker is contaminated by the HIV virus or suffers from AIDS;

iv. where appropriate, to apply only in conformity with the principles of common law the concept of criminal liability to persons who, while knowing that they carry the virus, have transmitted it to other persons by having sexual relations with them, provided that no coercion was involved and the other persons are adults and duly informed.

Convention européenne des Droits de l'Homme, soit en ajoutant la santé parmi les motifs de distinction interdits, soit en élaborant une clause générale d'égalité de traitement devant la loi;

B. d'encourager ceux des Etats membres qui ne l'ont pas encore fait à ratifier la Convention pour la protection des personnes à l'égard du traitement automatisé des données à caractère personnel;

C. de charger le comité d'experts sur la protection des données d'examiner de façon urgente les problèmes liés aux données informatisées concernant les porteurs du virus VIH;

D. d'inviter les Etats membres du Conseil de l'Europe:

i. à prendre toutes les dispositions pour assurer le respect de la confidentialité et/ou de l'anonymat des personnes séropositives ou atteintes du SIDA;

ii. à ne pas faire application de l'article 5, paragraphe 1.*e*, de la Convention européenne des Droits de l'Homme pour justifier l'isolement ou l'hospitalisation d'office au seul motif que le demandeur est infecté par le virus VIH;

iii. à ne pas refuser le droit d'asile pour le seul motif que le demandeur est contaminé par le virus VIH ou atteint du SIDA;

iv. et, éventuellement, à engager, seulement selon les principes du droit commun, la responsabilité pénale de personnes qui, se sachant porteuses du virus, en ont contaminé d'autres en ayant avec elles des relations sexuelles lorsqu'il n'y a pas eu contrainte et que la personne contaminée est adulte et dûment informée.

PARLIAMENTARY ASSEMBLY
OF THE
COUNCIL OF EUROPE

FORTY-FIRST ORDINARY SESSION

RECOMMENDATION 1116 (1989)[1]
on AIDS and human rights

The Assembly,

1. Having regard to its Resolution 812 (1983) on the acquired immune deficiency syndrome (AIDS), and its Recommendation 1080 (1988) on a co-ordinated European health policy to prevent the spread of AIDS in prisons;

2. Referring to the Committee of Ministers' Recommendation No. R (87) 25 concerning a common European public health policy to fight the acquired immunodeficiency syndrome (AIDS);

3. Noting that, although the Council of Europe has been concerned with prevention ever since 1983, the ethical aspects have been touched upon only cursorily;

4. Considering nevertheless that it is essential to ensure that human rights and fundamental freedoms are not jeopardised on account of the fear aroused by AIDS;

5. Concerned in particular at the discrimination to which some AIDS victims and even seropositive persons are being subjected;

6. Stressing in this connection the overriding need to protect medical secrecy and ensure the anonymity of AIDS victims and seropositive persons;

7. Convinced that a humane approach is entirely consistent with efforts to combat the disease,

8. Recommends that the Committee of Ministers:

A. instruct the Steering Committee for Human Rights to give priority to reinforcing the non-discrimination clause in Article 14 of the European

1. *Assembly debate* on 29 September 1989 (21st Sitting) (see Doc. 6104, report of the Legal Affairs Committee, Rapporteur: Mr Stig Gustafsson).

Text adopted by the Assembly on 29 September 1989 (21st Sitting).

ASSEMBLÉE PARLEMENTAIRE
DU
CONSEIL DE L'EUROPE

QUARANTE ET UNIÈME SESSION ORDINAIRE

RECOMMANDATION 1116 (1989)[1]
relative au SIDA et les droits de l'homme

L'Assemblée,

1. Rappelant sa Résolution 812 (1983) relative au syndrome immuno-déficitaire acquis (SIDA), et sa Recommandation 1080 (1988) relative à une politique européenne coordonnée de la santé pour prévenir la propagation du SIDA dans les prisons;

2. Se référant à la Recommandation n° R (87) 25 du Comité des Ministres concernant une politique européenne commune de santé publique de lutte contre le syndrome d'immunodéficience acquise (SIDA);

3. Constatant que si le Conseil de l'Europe s'est préoccupé dès 1983 de la prévention, les aspects éthiques n'ont été qu'effleurés;

4. Estimant pourtant qu'il est primordial de veiller à ce que les droits de l'homme et les libertés fondamentales ne soient pas mis en péril au nom de la peur qu'inspire le SIDA;

5. Inquiète en particulier des discriminations dont sont victimes certains malades ou même des personnes séropositives;

6. Soulignant à cet égard la nécessité impérieuse de garantir le secret médical et d'assurer l'anonymat des personnes malades ou séropositives;

7. Convaincue qu'une approche humaniste est pleinement compatible avec la lutte contre la maladie,

8. Recommande au Comité des Ministres:

A. de charger le Comité directeur pour les droits de l'homme d'accorder la priorité au renforcement de la clause de non-discrimination de l'article 14 de la

1. *Discussion par l'Assemblée* le 29 septembre 1989 (21e séance) (voir Doc. 6104, rapport de la commission des questions juridiques, rapporteur: M. Stig Gustafsson).

Texte adopté par l'Assemblée le 29 septembre 1989 (21e séance).

PARLIAMENTARY ASSEMBLY
OF THE
COUNCIL OF EUROPE

FORTY-FIRST ORDINARY SESSION

RECOMMENDATION 1117 (1989)[1]
on the condition of transsexuals

The Assembly,

1. Considering that transsexualism is a syndrome characterised by a dual personality, one physical, the other psychological, together with such a profound conviction of belonging to the other sex that the transsexual person is prompted to ask for the corresponding bodily "correction" to be made;

2. Considering that modern medical progress, and in particular recourse to sexual conversion surgery, enable transsexuals to be given the appearance and, to a great extent, the characteristics of the sex opposite to that which appears on their birth certificate;

3. Observing that this treatment is of a nature to bring the physical sex and the psychological sex into harmony with one another, and so give such persons a sexual identity which, moreover, constitutes a decisive feature of their personality;

4. Believing that account of the changes brought about should be taken in the transsexual's civil status records by adding such details to the original record so as to update the data concerning sex in the birth certificate and identity papers, and by authorising a subsequent change of forename;

5. Considering that a refusal of such amendment of the civil status papers exposes persons in this situation to the risk of being obliged to reveal to numerous people the reasons for the discrepancy between their physical appearance and legal status;

1. *Assembly debate* on 29 September 1989 (21st Sitting) (see Doc. 6100, report of the Legal Affairs Committee, Rapporteur: Mr Rodotà).

Text adopted by the Assembly **on 29 September 1989 (21st Sitting).**

ASSEMBLÉE PARLEMENTAIRE
DU
CONSEIL DE L'EUROPE

QUARANTE ET UNIÈME SESSION ORDINAIRE

RECOMMANDATION 1117 (1989)[1]
relative à la condition des transsexuels

L'Assemblée,

1. Considérant que le transsexualisme est un syndrome caractérisé par une personnalité double, l'une physique, l'autre psychique, la personne transsexuelle ayant la conviction profonde d'appartenir à l'autre sexe, ce qui l'entraîne à demander que son corps soit «corrigé» en conséquence;

2. Considérant que les progrès de la médecine moderne, et notamment le recours à la chirurgie de «conversion sexuelle», permettent de donner aux transsexuels l'apparence et, dans une large mesure, les caractères du sexe opposé à celui qui figure dans leur acte de naissance;

3. Constatant qu'un tel traitement est destiné à mettre en concordance le sexe physique et le sexe psychique, et à donner ainsi à la personne une identité sexuelle qui constitue d'ailleurs un élément déterminant de sa personnalité;

4. Estimant qu'il convient de tenir compte des modifications intervenues dans l'état civil du transsexuel, en ajoutant ces indications sur le registre d'état civil pour la mise à jour dans son acte de naissance et dans ses papiers d'identité des mentions révélatrices de son sexe, et en lui permettant de changer par la suite de prénom;

5. Considérant que le refus d'une telle rectification dans les actes d'état civil expose l'intéressé à devoir divulguer dans sa vie courante à de nombreuses personnes les raisons du décalage existant entre son physique et son être légal;

1. *Discussion par l'Assemblée* le 29 septembre 1989 (21e séance) (voir Doc. 6100, rapport de la commission des questions juridiques, rapporteur: M. Rodotà).

Texte adopté par l'Assemblée **le 29 septembre 1989 (21e séance).**

Recommendation 1117

6. Noting that transsexualism raises relatively new and complex questions to which states are called upon to find answers compatible with respect for human rights;

7. Observing that, in the absence of specific rules, transsexuals are often the victims of discrimination and violation of their private life;

8. Considering, furthermore, that the legislation of many member states is seriously deficient in this area and does not permit transsexuals, particularly those who have undergone an operation, to have civil status amendments made to take account of their appearance, external morphology, psychology and social behaviour;

9. Considering the case-law of the European Commission and Court of Human Rights;

10. Referring to the resolution which the European Parliament adopted on 12 September 1989, in which, among other things, it called on the Council of Europe to enact a convention for the protection of transsexuals,

11. Recommends that the Committee of Ministers draw up a recommendation inviting member states to introduce legislation whereby, in the case of irreversible transsexualism:

a. the reference to the sex of the person concerned is to be rectified in the register of births and in the identity papers;

b. a change of forename is to be authorised;

c. the person's private life is to be protected;

d. all discrimination in the enjoyment of fundamental rights and freedoms is prohibited in accordance with Article 14 of the European Convention on Human Rights.

Recommandation 1117

6. Constatant que le transsexualisme soulève des questions relativement récentes et complexes auxquelles il appartient aux Etats d'apporter des solutions dans le respect des droits fondamentaux;

7. Constatant que, faute de règles spécifiques, le transsexuel est souvent victime de discriminations et de violations de sa vie privée;

8. Considérant, d'autre part, que la législation de nombreux Etats membres comporte de graves lacunes à cet égard et ne permet pas au transsexuel, et notamment au transsexuel opéré, de faire rectifier son état civil pour tenir compte de son apparence, de sa morphologie externe, de son psychisme et de son comportement social;

9. Considérant la jurisprudence de la Commission et de la Cour européennes des Droits de l'Homme;

10. Se référant à la résolution que le Parlement européen a adoptée le 12 septembre 1989, dans laquelle il demandait notamment au Conseil de l'Europe d'élaborer une convention pour la protection des transsexuels,

11. Recommande au Comité des Ministres d'élaborer une recommandation invitant les Etats membres à réglementer par un texte législatif cette matière, aux termes duquel, dans le cas de transsexualisme irréversible:

a. la mention concernant le sexe de l'intéressé devrait être rectifiée dans le registre des naissances, ainsi que dans ses pièces d'identité;

b. le changement du prénom devrait être autorisé;

c. la vie privée devrait être protégée;

d. toutes discriminations dans la jouissance des libertés et droits fondamentaux devraient être interdites conformément à l'article 14 de la Convention européenne des Droits de l'Homme.

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Case of Barberà, Messegué and Jabardo, Vol. 146
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Cuilla case, vol. 148
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De Cubber Case, Vol. 70
Rasmussen Case, Vol. 71

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ANNEX

Applications declared admissible

The following cases were declared admissible in 1988:

- Radio Groppera v. Switzerland (No. 10890/84) concerning the prohibition on Swiss cable network companies from distributing radio programmes initially broadcast from a transmitter in Italy (1 March 1988);

- Karni v. Sweden (No. 11540/85) concerning access to court following a refusal to permit the applicant to continue as a part-time doctor in the Swedish health service (8 March 1988);

- Jacobsson v. Sweden (No. 11309/84) concerning access to court in order to challenge a new building plan which adversley affected the applicant's use of his property (8 March 1988);

- Boschet v. Belgium (No. 10835/84) concerning the successive exercise of the functions of member of the Chamber and first-instance judge by the same member of the judiciary in the same criminal case (10 March 1988);

- Darby v. Sweden (No. 11581/85) concerning the obligation for the applicant to pay church taxes as part of municipal taxes and the impossibility for him to obtain exemption from that obligation on account of residence criteria (11 April 1988);

- Azevedo v. Portugal (No. 11296/84) concerning the length of criminal proceedings (14 April 1988);

- Kruslin v. France (No. 11801/85) concerning the use in criminal proceedings of a tape recording of a telephone conversation held by the applicant (6 May 1988);

- S. v. Netherlands (No. 10808/84) concerning the length (7 years) of criminal proceedings for embezzlement (7 May 1988);

- Skarby v. Sweden (No. 12258/86) concerning judicial review of a refusal to grant a building permit (9 May 1988);

- G. v. United Kingdom (No. 11932/86) concerning the refusal of legal aid for the applicant's appeal against conviction for perjury (9 May 1988);

- Fox, Campbell and Hartley v. United Kingdom (Nos. 12244/86, 12245/86 and 12383/86) concerning the applicants' arrest and detention under the Northern Ireland (Emergency Provisions) Act 1978 as suspected terrorists (10 May 1988);

- Meier-Sax v. Switzerland (No. 12421/86) concerning the length of proceedings relating to a preliminary issue in the applicant's claim for compensation for noise emanating from a military shooting site (11 May 1988);

- H. and H. v. United Kingdom (No. 12175/86) concerning secret surveillance measures (12 May 1988);

- E. v. Norway (No. 11701/85) concerning the Norvegian provision of review of administrative decisions concerning deprivation of liberty and other enforcement measures (12 May 1988);

- Skoogström v. Sweden (No. 12867/87) concerning the period which elapsed between the applicant's arrest and his appearance before a judge (12 May 1988);

- G. v. Austria (No. 11744/85) concerning the length of civil proceedings (6 July 1988);

- Q. v. Switzerland (No. 12744/87) concerning the refusal to designate a lawyer in criminal proceedings (6 July 1988);

- Huvig v. France (No. 11105/84) concerning the right to a fair trial (6 July 1988);

- Keus v. Netherlands (No. 12228/86) concerning the prolongation of the applicant's placement at the Government's disposal (6 July 1988);

- Weber v. Switzerland (No. 11034/84) concerning the right to a fair trial (7 July 1988);

- Huber v. Switzerland (No. 12794/87) concerning the function of the Zurich District Attorney in criminal proceedings (8 July 1988);

- Chichlian and Ekindjian v. France (No. 10959/84) concerning the right of defence in criminal proceedings (8 July 1988);

- Chauhan v. United Kingdom (No. 11518/85) concerning compulsory membership of trade union (12 July 1988);

- Thyne, Wilson, Weeks and Gunnell v. United Kingdom (Nos. 11787/85, 11978/86, 12000/86 and 12009/86) concerning the alleged absence of a procedure by which the applicants, who had been given discretionary life sentences, can have their continuing detention reviewed by a court (6 September 1988);

- Clerc v. France (No. 12393/86) concerning the length of criminal proceedings (8 September 1988);

- Delta v. France (No. 11444/85) concerning the right to a fair trial (criminal proceedings) (8 September 1988);

- Nyberg v. Sweden (No. 12574/86) concerning a prohibition on a removal of a child from the foster parents to the natural parents (4 October 1988);

- Funke v. France (No. 10828/84) concerning proceedings taken against the applicant on the basis of the French Customs Code (6 October 1988);

- Axelsson v. Sweden (No. 12213/86) concerning the right of access to court in order to have administrative decisions refusing reserve taxi licences reviewed (10 October 1988);

- Nimmo v. United Kingdom (No. 12327/86) concerning security clearance procedures (11 October 1988);

- Karlsson v. Sweden (No. 12782/87) concerning a refusal to grant the applicant a permit to acquire property and the lack of judicial proceedings to review that decision (12 October 1988);

- Skoogström v. Sweden (No. 14073/88) concerning the right to be brought promptly before a judge after arrest (14 October 1988);

- Vermeire v. Belgium (No. 12849/87) concerning inheritance rights of illegitimate children (8 November 1988);

- Isgro' v. Italy (No. 11339/85) concerning the principle of a fair trial in criminal proceedings and in particular that of equality of arms and of presumption of innocence (9 Novembre 1988);

- Soering v. United Kingdom (No. 14038/88) concerning extradition to the United States and the risk of death penalty (10 November 1988);

- Zanghi v. Italy (No. 11491/85) concerning length of civil proceedings (5 December 1988);

- Brigandi v. Italy (No. 11460/85) concerning length of civil proceedings (5 December 1988);

- L.G. v. Italy (No. 10659/83) concerning length of criminal proceedings and the rights of the defence (5 December 1988);

- Philis v. Greece (No. 12750/87) concerning the right for a private consultant engineer to sue in person his debtors for their failure to pay him the sums due (7 December 1988);

- D. et al v. Belgium (No. 11966/86) concerning the failure by the State to pay damages to the applicants to which they were entitled according to a judicial decision (8 December 1988);

- Rademacher and Pferrer v. Federal Republic of Germany (No. 12811/87) concerning the fairness of criminal proceedings brought about by undercover agents of the German police (8 December 1988);

- Koendjbiharie v. Netherlands (No. 11487/85) concerning the proceedings for prolonging the applicant's detention at the Government's disposal for treatment in a mental hospital (9 December 1988);

- Autronic AG v. Switzerland (No. 12726/87) concerning the applicant's complaint that it is not allowed to receive Soviet television programmes by means of its dish antennae (13 December 1988);

- W. v. Austria (No. 12489/86) concerning anonymous witnesses (14 December 1988);

- Motta v. Italy (No. 11557/85) concerning length of criminal proceedings (14 December 1988);

- P. v. Austria (No. 13017/87) concerning the length of criminal proceedings (14 December 1988);

- D. v. Federal Republic of Germany (No. 11157/84) concerning the length of civil proceedings concerning damages for alleged medical negligence (15 December 1988);

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UNITED NATIONS

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COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Agenda item 7 (a)

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT

Communication dated 17 January 1990 from the Permanent Mission of Peru to the United Nations Office at Geneva addressed to the Centre for Human Rights

1. The Permanent Mission of Peru to international organizations with headquarters at Geneva presents its compliments to the Centre for Human Rights and has the honour to request circulation of the following documents, so that delegations attending the forty-sixth session of the Commission on Human Rights will have at their disposal all the documentation needed for them to carry out their important functions, particularly with reference to agenda item 7 (a):

"Adjustment with a Human Face", United Nations Children's Fund (UNICEF);

"The state of the World's Children, 1989", United Nations Children's Fund (UNICEF);

"The state of the World's Children, 1990", United Nations Children's Fund (UNICEF);

Preliminary report of the Independent Expert, Danilo Türk, Sub-Commission on Prevention of Discrimination and Protection of Minorities, forty-fourth session;

"Debt Tables, 1989-1990", World Bank.

2. Similarly, the Permanent Mission of Peru requests that this note be considered as an official document of the Commission on Human Rights at its forty-sixth session.

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Agenda item 18

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS

Report of the Secretary-General

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1. In its resolution 44/135 of 15 December 1989, the General Assembly, inter alia, reiterated its request that the Secretary-General review the need for adequate staffing resources in regard to the various treaty bodies and requested him to report on that question to the Commission on Human Rights at its forty-sixth session and to the General Assembly at its forty-fifth session.

2. It will be recalled, in that connection, that the Chairpersons of human rights treaty bodies at their meeting held in October 1988 agreed that in order to maintain the required level of secretariat services to the various treaty bodies, those services needed to be strengthened both within the Centre for Human Rights and the Branch for the Advancement of Women. Special reference was made in this regard to the rapidly expanding workload of the various committees as a result of increasing numbers of ratifications and accessions and the major increase in the number of State reports and communications being submitted to the relevant bodies.

3. The rapidly expanding workload of the various Committees being serviced by the Centre for Human Rights has placed growing demands upon the Secretariat which the Centre is finding increasingly difficult to meet. The entry into operation of the Committee on the Rights of the Child, which is expected within the current biennium, will, in the absence of additional staff, further exacerbate this existing imbalance between personnel resources and work requirements. As may be seen from the calendar of conferences for 1990, the Centre which is responsible for providing both substantive and technical support to five of the six existing treaty bodies and which will also have responsibility for the Committee on the Rights of the Child, will need to service in 1990 alone some 18 sessions of the various treaty bodies, lasting for a total of more than 32 weeks of meeting service.

4. While the eventual computerization of the work of the treaty bodies in relation to reporting is expected, in time, to increase productivity, for the foreseable future it will not be possible to meet fully the anticipated requirements for support services to the treaty bodies without some staff increases.

5. In its resolution 44/135, the General Assembly also requested the Secretary-General, as a matter of priority, to consider administrative and budgetary measures to alleviate the current financial difficulties of the treaty bodies and thus guarantee their regular functioning, and to report on these measures to the Commission on Human Rights at its forty-sixth session.

6. Currently, the activities of all but two of the treaty bodies are financed under the regular budget of the United Nations, the two exceptions being the Committee on the Elimination of Racial Discrimination and the Committee

against Torture. Although it may be foreseen that eventually the Committee against Torture - whose total expenses, including the Secretariat support services, are funded by the States parties to the Convention - may encounter financial difficulties, at present only the activities of the Committee on the Elimination of Racial Discrimination are being adversely affected by financial difficulties.

7. As at 31 December 1989, an amount of $ 151,578 in assessments receivable for 1989 and prior years remained outstanding from 55 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination representing 81.6 per cent of the net amount assessed against States parties for 1989. Partly because of these arrears, the Committee for the past several years has been unable to hold both of its scheduled annual sessions. Another major difficulty has been that States parties have generally not been paying their assessments prior to 1 February of each year, despite the General Assembly's repeated requests to them to do so. As a result, sufficient funds have not been available in time to permit holding the Committee session that is normally scheduled for March of each year. Paradoxically, the payments received prior to the end of each of the past three years have been more than the amount actually disbursed and, in accordance with normal United Nations practice, States parties making their contributions regularly were entitled to be credited with over-assessments of $ 47,730, $ 113,936 and $ 99,220 in 1987, 1988 and 1989 respectively. 1/

8. As the foregoing analysis indicates, the Committee's financial difficulties could be at least partially alleviated by the payment of the existing arrears or by the early payment by States parties of a substantital part of their annual assessments or by a combination of both. Unfortunately, experience has shown that for a variety of reasons, neither of these alternatives holds much promise.

9. Against this background, it would appear that only two avenues offer a real prospect of resolving the Committee's financial difficulties. One such measure - which has been recommended by the chairpersons - would be to place the Committee on the same footing as the other treaty bodies (with the exception of the Committee against Torture) by financing its activities from the regular budget of the United Nations. Thus far, the General Assembly has not seen fit to take action on that recommendation. Neither has it been possible for the Secretary-General, owing to the Organization's financial crisis, to resume his earlier practice of advancing funds from the regular budget to meet the shortfall in contributions to finance the expenses of the members of the Committee which are the responsibilities of the States parties under the Convention.

1/ See: The Report of the Secretary-General submitted to the thirteenth meeting of the States parties to the Convention, document CERD/SP/38.

10. Under present conditions, the most feasible measure might be to establish a "contingency reserve fund" for the Committee on the Elimination of Racial Discrimination of up to US $ 200,000, based on voluntary contributions from States parties. The Committee's meetings could then be financed out of that fund on a "contingency advance basis" to be reimbursed from State party payments received prior to 31 December of each year.

11. Longer range issues relating to financial arrangements and Secretariat servicing of both existing and prospective treaty bodies, are discussed in Chapter IV of document A/44/668, which has been placed before the Commission at its forty-sixth session under item 18 of its agenda.

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Agenda item 9

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Letter dated 6 February 1990 from the Permanent Representative of the People's Republic of China to the United Nations Office at Geneva addressed to the Under-Secretary-General for Human Rights

In the debate of the forth-sixth session of the Commission on Human Rights under Item 9 "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation", a few NGO representatives referred to Tibet Autonomous Region of the People's Republic of China as a country and further demanded the "right to self-determination" for Tibet. I have the honour to transmit herewith a "Position Document on the Question of Tibet" in order to ensure a correct understanding of the facts.

I should be very grateful if you would arrange for the aforementioned document to be circulated as an official document of the Commission on Human Rights under Item 9: "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation".

(Signed) FAN GUOXIANG
Ambassador
Permanent Representative

Annex

POSITION DOCUMENT ON THE QUESTION OF TIBET

(February 1990)

1. The People's Republic of China is a united, multi-national country, jointly formed through long-time co-operation by 56 nationalities, including the Han, Tibetan, Mongolian, Man, Uygur and Hui nationalities. Since the thirteenth century A.D., Tibet has remained an inseparable part of the sacred territory of China. During the 700-odd years thereafter, the successive central Governments of China all exercised effective sovereign administration over Tibet. In the nearly four decades after the collapse of the Qing Dynasty in 1911 to the founding of the People's Republic, despite the fact that the imperialists launched armed invasions against Tibet and tried hard to foster followers in the upper stratum of society in an attempt to separate it from China and turn it into an "independent state" under foreign control, the fact that Tibet is a part of the Chinese territory remained unchanged. And not a single country in the world has ever recognized the so-called "independence of Tibet". At present, Tibet is an autonomous region, same as a province, in the People's Republic of China. The Tibetan people are a member of the big family of the Chinese nation. These facts are well-known to all countries in the world.

2. The Government of China has all along attached great importance to the ethnic issue, regarding as its basic policy in this area to ensure equality and solidarity among various nationalities, apply autonomy in regions inhabited by ethnic minorities and promote common development and prosperity of all nationalities. The equal democratic rights enjoyed by various ethnic groups in the political, economic, cultural and other fields have been clearly specified by the Constitution and the Law on Regional National Autonomy. This policy has been fully implemented in Tibet as well. Today, the Tibetan people, like people of other nationalities in China, enjoy every right for citizens as provided in the Chinese Constitution, including the right to freedom of religion and worship. In addition, they enjoy various privileges and freedoms provided in the Law on Regional National Autonomy, such as the establishment of autonomous bodies to exercise the right of autonomy; freedom of using and developing the Tibetan language; freedom of keeping their own customs and traditional culture, etc. All these incontestably demonstrate that it is a sheer fabrication with ulterior motives to allege that the Chinese Government has "deprived the Tibetans of their fundamental rights and freedoms".

3. Since the fall of 1987, several riots have occurred in Lhasa, the capital city of Tibet Autonomous Region. These riots are linked neither with the ethnic or religious matters, nor with the human rights issue, but are incidents deliberately provoked by a few separatists in an attempt to split China. These separatists not only wantonly advocated the so-called "independence of Tibet", but were unscrupulously engaged in such violent acts as beating, smashing, looting and burning. No sovereign State could tolerate these activities. The measures taken by the Chinese Government for the sake of protecting the personal safety and property from being violated are entirely justified and above criticism, which brooks no interference by any foreign Government, any international organization or any individual.

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4. It is universally known that the right of the peoples to self-determination is an important concept developed since the Second World War. This concept has its specific connotation. In essence, it refers to the right of the oppressed nations and peoples to get rid of the imperialist and colonialist rule and strive for winning the people's liberation and national independence. In today's world, however, some people, in disregard of the history and reality that Tibet has been a part of China, blatantly manipulate the real meaning of the right of peoples to self-determination which is recognized by international law. They even go so far as to raise the issue of the so-called right of peoples to self-determination in Tibet in total defiance of the basic norms governing international relations. What they are up to is obviously trying to lay hands on the question of Tibet, interfere in China's internal affairs, and preach "the independence of Tibet". This can by no means be tolerated by the Chinese Government and the whole Chinese people including the people of Tibet. The human rights bodies of the United Nations should stop such manoeuvre which wilfully distorts the gist of the United Nations human rights instruments.

5. As is known to all, before the democratic reform took place in 1959, there had maintained in Tibet a comprehensive feudal serfdom, which was politically the theocratic dictatorship of the feudal lords, and economically the monopoly economy of the feudal lords based on manor system. At that time, the Tibetans even had no freedom of person, let alone human rights. Only after the abolition of the serf system and the introduction of democratic reform into the Tibetan society, did the people there begin to enjoy the civil rights and all the political, economic, social and cultural rights guaranteed by the Constitution of the People's Republic of China. And only then did they enjoy the basic human rights for the first time. Over the last decade, the central Government has adopted a series of special preferential policies and flexible measures for Tibet Autonomous Region, which have brought about the generally-acknowledged achievements and progress in the fields of economy, culture and education, etc. As far as human rights are concerned, the Chinese Government's success in abolishing the feudal serf system in Tibet and transforming that society from serfdom to people's democracy contributes most to the protection of fundamental human rights enjoyed by our Tibetan compatriots.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation in Burma */

Note by the Secretary-General submitted pursuant to Commission on Human Rights decision 1989/112

1. At its forty-fifth session, the Commission on Human Rights adopted, on 8 March 1989, decision 1989/112 entitled "Situation in Burma", in which the Commission, concerned at the reports and allegations of violations of human rights in Burma in 1988 and also at the obstacles to be overcome in the way of the implementation of the democratic aspirations of the Burmese people, decided, inter alia, to invite the Burmese delegation to continue to provide the Commission on Human Rights with the necessary information on this question.

2. By a note verbale dated 19 December 1989, the Secretary-General requested the Permanent Representative of the Union of Myanmar to the United Nations Office at Geneva to submit by 1 February 1990 any information the Government might wish to provide in accordance with Commission decision 1989/112.

3. On 29 January 1990, the Permanent Representative of the Union of Myanmar to the United Nations Office at Geneva addressed a note verbale to the Secretary-General stating the following:

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*/ On 18 June 1989, the name of Burma was changed to Myanmar.

"The Permanent Representative of the Union of Myanmar to the United Nations Office and other International Organizations in Geneva presents his compliments to the Secretary-General of the United Nations and has the honour to refer to the latter's Note No. G/SO 14(62) dated 19 December 1989 in which the attention of the Government of the Union of Myanmar has been drawn to the provision contained in paragraph (e) of decision 1989/112 adopted on 8 March 1989 by the Commission on Human Rights at its forty-fifth session.

In this connection, the Permanent Representative would like to state the following:

(a) It is certainly the intention of the Government of the Union of Myanmar to continue to co-operate with the Commission on Human Rights by providing it with the information requested in paragraph (e) of the Commission's aforementioned decision.

(b) The independent five-member Multi-party Democracy General Elections Commission has, as of the date of this note, completed about 70% of the works preparatory to the holding of the general elections which are scheduled to be held on 27 May 1990.

(c) According to the 14-month timetable drawn up by the Multi-party Democracy General Elections Commission, January and February 1990 will be the most fateful months when political parties contesting elections are required to nominate candidates and subsequently start off a fully-fledged public political campaign for canvassing of votes with full democratic rights subject only to the maintenance of public order and morality.

(d) The Elections Commission has also announced dates for the nomination, scrutinization and withdrawal of nominations of candidates. The period for the nomination of Pyithu Hluttaw (Parliament) candidates for various constituencies was from 28 December 1989 to 3 January 1990. The period for the scrutinization of the nominations of candidates was from 5 to 9 January 1990. The last date for withdrawal of the nominations of candidates was 22 January 1990.

(e) It is encouraging to note that the initial announcements made by the political parties indicate the following position:

- 117 political parties will be contesting the elections
- 6 of them (namely National League for Democracy (NLD), National Unity Party (NUP), Democracy Party, Union Nationals Democracy Party (UNDP), Coalition League for Democratic Multi-party Unity and League for Democracy and Peace (LDP), will contest in more than 300 constituencies (there are altogether 492 constituencies))
- 4 will contest between 101 and 200 constituencies
- 4 will contest between 51 and 100 constituencies

- 31 will contest between 11 and 50 constituencies

- 72 will contest between 3 and 10 constituencies.

(f) As of 9 January 1990, a total of 2,392 Pyithu Hluttaw candidates (83 independents and 2,309 from 100 political parties) have put up nomination papers, indicating broad participation in the forthcoming general elections by the whole spectrum of political parties and organizations. It is worth noting that none of the candidates had withdrawn his or her candidatures on or before the closing date for such withdrawal - 22 January 1990.

(g) The Government of the Union of Myanmar will arrange to have a delegation to participate in the work of the Commission in the capacity of an observer as in previous years and report to the Commission at an appropriate time and in an appropriate manner during its forth-sixth session in keeping with the provisions of decision 1989/112.

(h) In the meanwhile, as part of the process to keep the Commission informed of the matter, the Permanent Mission of the Union of Myanmar in Geneva will be keeping in close touch with all State members of the Commission on Human Rights.

The Permanent Representative of the Union of Myanmar would like to express the appreciation and thanks to the Secretary-General for his thoughtfulness in bringing to the attention of the Government of the Union of Myanmar the provision in paragraph (e) of decision 1989/112 and would feel obliged if he could take the present note as a part of the process to provide the Commission with the required information before the situation in the Union of Myanmar become clearer in January and February 1990."

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 31 January 1990 from the Minister of Foreign Affairs of Turkey to the United Nations Office at Geneva addressed to the Secretary-General

1. I am writing to you in order to focus attention on the grave situation which has developed during the recent days in Western Thrace, Greece, where a Turkish Muslim minority is living under the protection of the Lausanne Peace Treaty of 1923 and naturally of many modern instruments on the protection of human rights. The oppression of this minority and the violation of its rights by successive Greek Governments and régimes has always been a cause of deep concern for us in Turkey.

2. The scope of the violent attacks directed against the members of the minority since last week in the town of Komotini urgently requires international attention to supplement our efforts in order to reverse the unfortunate course of events in this corner of Europe.

3. Dr. Sadik Ahmet, one of the leaders of the Turkish Muslim minority in Western Thrace and a former member of Parliament from Komotini, and Mr. Ibrahim Serif, an independent candidate from the same district, after a mock trial at the Rodop Criminal Court in Komotini on 25 January 1990, have

been sentenced to 18 months of imprisonment and have been deprived of their political rights for 3 years. Dr. Ahmet and Mr. Serif have been put into immediate detention pending appeal. The President of the Istanbul Bar Association who followed the trial has characterized the verdict and the proceedings as "the registration of a freak anger and the feelings of revenge, rather than a fair judgement".

4. This was the third court case brought against Dr. Sadik Ahmet, essentially for attempting to voice the grievances and the reaction of the Turkish Muslim minority in Western Thrace, against persistent discrimination, harassment and oppression. In this case Dr. Sadik Ahmet and his colleague were charged with the "crime" of using the "Turkish" adjective to describe the minority in Western Thrace in their election statements prior to the elections held in Greece on 5 November 1989.

5. Prior to the aforementioned elections, enormous pressure was exerted, amounting to threats, in order to prevent the Turkish Muslim minority of Western Thrace from freely exercising its political right to elect and be elected as equal Greek citizens. The accusations against Dr. Ahmet and Mr. Serif were merely a continuation of the same campaign to silence these two members of the Turkish community in Western Thrace.

6. At the trial in Komotini, an attempt was made to prosecute not only Dr. Ahmet and Mr. Serif but the entire Turkish minority virtually in the atmosphere of a people's court. The following points particularly demonstrate under which unfair and indeed deplorable conditions this trial has taken place:

(a) Throughout the trial, the Chief Judge has put questions to the prosecutor's witnesses, which have also contained the required replies. He has made irresponsible and provocative political remarks denying the existence of a Turkish minority in Western Thrace.

(b) In fact, the court was turned into a forum to debate this allegation while the defence witnesses and the accused were silenced.

(c) While the prosecutor's witnesses enjoyed nearly one hour of speaking time, the defence witnesses were rebuked, silenced and many of them were dismissed within the first couple of minutes.

(d) The defence lawyers' objections with regard to procedure and court order were ignored. Their legal rejection of the second judge for prejudicial conduct was not properly examined and was perfunctorily ruled out.

(e) Upon the withdrawal of the defence lawyers from the case, Dr. Ahmet requested postponement of the trial until new lawyers could be assigned and an adequate interpreter could be provided. This request was not considered. As a result, both defendants were tried without lawyers and without an adequate interpreter. Moreover, their personal right of defence was severely restricted.

(f) The court room was occupied by a crowd demonstrating against and trying to intimidate the defendants. These demonstrations were tolerated and even condoned by the judges and the security officers on duty.

7. On the morning of 26 January 1990, when the decision against the defendants was made public, street demonstrations were organized against the Turkish minority in Komotini.

8. We immediately expressed our indignation in the face of this situation which has marred the concept of justice. We also drew the attention of the Greek Government to the tension which prevailed in Komotini and requested full security measures to be taken in order to prevent mass attacks against the Turkish minority. We were given assurances by the Greek authorities that all precautions would be taken.

9. Despite these assurances, Komotini became the scene of organized mass violence against the Turkish minority on 29 January 1990. Grave assaults took place against the members of the minority and their shops and offices were destroyed and looted by savage mobs. Similarly the offices of two local Turkish language newspapers, "Akin" and "Gercek" were ransacked. Members of the minority were forcefully prevented from entering the main mosque in Komotini for a prayer service. Many were wounded, some of them seriously during these incidents.

10. Throughout the entire course of this episode, Greek police and officials did not take any preventive action and were content to be mere spectators to the violence that unfolded before their eyes. All the radio stations in Komotini made provocative broadcasts, instigating and supporting the brutal attacks against the minority. The Greek Government, despite our persistent demarches, took no decisive action to put an end to this totally unacceptable situation.

11. We strongly deplore these incidents and the conduct of the Greek authorities. The full responsibility for these incidents rests with the Greek Government which is under the obligation to protect not only the rights but also the security of the Turkish minority as equal Greek citizens.

12. We expect that, like us, you will find it impossible to ignore or to excuse such use of brute force in a member country of the European community.

13. Both the trial of Dr. Sadik Ahmet and Mr. Ibrahim Serif and the scope of the violence directed against the minority testify to the violation of human rights in Western Thrace.

14. We expect Greece to respect its contractual obligations, to offer indemnity for the losses suffered by the minority and to take action in good will to resolve the serious problems in Western Thrace.

15. I wish to appeal to you to firmly uphold human rights in Western Thrace. The trial of Dr. Sadik Ahmet and Ibrahim Serif is a violation of fundamental concepts such as a fair and public hearing by an impartial tribunal, the right to defend himself in person or through legal assistance, to have the free assistance of an interpreter if he cannot speak the language used in court, and the right to freedom of expression. The organized violence which has pursued the trial has violated many more basic principles, starting with the right to security of person.

16. At a time when human rights and democratic norms are so decisively gaining ground in Europe and elsewhere, I am confident that you will not wish to fail to contribute to the protection and the promotion of the same values in Western Thrace. I hope you will take an active interest in the human rights problems in this region of Greece and assist our efforts for impressing upon the Greek Government the urgent need to deal with these problems peacefully within a humanitarian and enlightened context.

(Signed) Mesut Yilmaz
Minister of Foreign Affairs